

**FINAL**  
CITY COUNCIL  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. January 6, 2009

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on December 16, 2008 and special meeting on December 18, 2008

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**AWARDS AND PROCLAMATIONS**

- Proclamation:  
Kyle Hicks Day
- Award:  
Wichita Aztecs National Championship Awards
- Service Awards:  
Addison A. DeAllie  
Larry O. McClintock

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a “first-come, first-served” basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

None

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**COUNCIL BUSINESS**

**II. UNFINISHED COUNCIL BUSINESS**

1. Public Hearing, Request for Resolution of Support for Application for Housing Tax Credits; Inwood Crossings Senior Apartments. (District I)

RECOMMENDED ACTION: Close the public hearing, adopt the resolution of support for the application for Housing Tax Credits, with waiver of the 20% market-rate unit requirement, subject to all local building and zoning codes, ordinances and any additional design review requirements, and authorize the necessary signatures.

**III. NEW COUNCIL BUSINESS**

1. *Appeal of Decision of the Board of Appeals of Plumbers and Gas Fitters - One-Year Suspension of Journeyman Plumbing Certificate of Kevin Lehane*

**(DEFERRED TO JANUARY 13, 2009)**

2. Public Hearing and Adoption of KenMar Center Redevelopment Project Plan. (District I)

RECOMMENDED ACTION: Close the public hearing and approve first reading of the ordinance adopting Ken Mar Center Project Plan, approve first reading of the bonding ordinance authorizing the TIF-funded improvements and approve the Development Agreement and authorize the necessary signatures.

3. Release of Property, The Coleman Company. (District VI)

RECOMMENDED ACTION: Place on first reading the Ordinance authorizing amendments to bond documents to release and convey Coleman's downtown property and authorize necessary signatures.

4. South Broadway Streetscapes. (Districts I and III)

RECOMMENDED ACTION: Approve the Broadway streetscape project, adopt the Resolution and authorize the necessary signatures.

5. West Kellogg, 111th Street West to 143rd Street West. (Districts IV and V)

RECOMMENDED ACTION: Approve the design concept, authorize acquisition of right-of-way, adopt the Resolution and authorize the signing of State/Federal agreements as required.

6. Petition to Pave parts of New Jersey and Bunker Hill Drive, east of Oliver, north of 31st Street South.  
(District III)

RECOMMENDED ACTION: Approve the Petition, adopt the Resolution and authorize the necessary signatures.

7. Elm Street Paving, between Dougherty and Nevada. (District VI)

RECOMMENDED ACTION: Approve the Project, adopt the Resolution and authorize the necessary signatures.

8. Elm Street paving, between Young and Dougherty. (District VI)

RECOMMENDED ACTION: Approve the Project, adopt the Resolution and authorize the necessary signatures.

9. Grants Review Committee Appointments.

RECOMMENDED ACTION: Approve the appointments to the 2009 Grants Review Committee. It is further recommended that the City Council authorize the City Manager to appoint a replacement(s), in the event that an appointee is unable to serve.

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## **COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

### **PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

### **IV. NON-CONSENT PLANNING AGENDA**

None

### **V. CONSENT PLANNING AGENDA (ITEMS 1 THROUGH 12)**

1. \*ZON2008-00057 – Zone change from B Multi-family (“B”) to LC Limited Commercial (“LC”); generally located south and east of the intersection of Elm Street and Glendale Avenue (east of Oliver Avenue and north of Central Avenue). (District I)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #223; place the ordinance establishing the zone change on first reading; OR 2) Return the application to the MAPC for reconsideration; OR 3) Deny the application.  
(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

2. \*CUP2008-45 and ZON2008-62 – Creation of DP-317 Summit Crossing Community Unit Plan and zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”); generally located south of 21st Street North and west of 127th Street East. (District II)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the community unit plan and the zone change to LC Limited Commercial (“LC”) subject to re-platting within one year and conditions and instruct the City Clerk to withhold publication of the ordinance until the plat has been recorded; OR 2) Return the application to the MAPC for reconsideration. (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

3. \*ZON2008-00065 – Zone change from GI General Industrial (“GI”) to SF-5 Single-family Residential (“SF-5”). Generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road. (District VI)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the zone change, place the ordinance on first reading; OR 2) Return the application to the MAPC for reconsideration. (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

4. \*ZON2008-00067 – City zone change from SF-5 Single-family Residential (“SF-5”) to LC General Commercial (“LC”) subject to a Protective Overlay; generally located north and east of South Meridian Avenue and I-235. (District IV)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change subject to platting within one year and the provisions of Protective Overlay #227; and withhold publication of the ordinance until the plat has been recorded; OR 2) Return the application to the MAPC for reconsideration. (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

5. \*PUD2008-05 - Create PUD #28 East Boulevard Planned Unit Development; generally located north of 3rd Street North between Oliver Street and Bleckley Drive. (District II)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the PUD #28 East Boulevard Planned Unit Development subject to conditions and dedications being met within one year; instruct the City Clerk to withhold publication of the ordinance until the conditions have been met and the dedications have been recorded; OR 2) Return the application to the MAPC for reconsideration. (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)



6. \*SUB 2008-25-Plat of First Pentecostal Church Addition located on the southeast corner of MacArthur and Hydraulic. (District III)

RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures, adopt the Resolutions, and approve first reading of the Ordinances.

7. \*SUB 2008-61-Plat of Gary Garrett Addition, east of Meridian and north of 45th Street North. (District VI)

RECOMMENDED ACTION: Approve the document and plat, authorize the necessary signatures, and adopt the Resolution.

8. \*DED 2008-12-Dedication of a Drainage Easement located on the southwest corner of Harry Street and Hoover Avenue. (District IV)

RECOMMENDED ACTION: Accept the Dedication and Acknowledgement Document.

9. \*DED 2008-13-Access Dedication located north of Pawnee and on the west side of Seneca. (District IV)

RECOMMENDED ACTION: Accept the Dedication.

10. \*VAC2007-00048 Request to vacate a portion of a platted easement; generally located west of Woodlawn Avenue, on the south side of 29th Street North. (District I)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

11. \*VAC2008-00020 Request to vacate a portion of a platted setback; generally located west of Meridian Avenue, on the north side of 53rd Street North. (District VI)

RECOMMENDED ACTION: Approve the Vacation Order, and authorize the necessary signatures.

12. \*VAC2008-00025 Request to vacate a portion of platted complete access control; generally located on the south side of 29th Street North and west of Woodlawn Boulevard. (District I)

RECOMMENDED ACTION: Approve the Vacation Order, and authorize the necessary signatures.

## **HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Allan Murdock, Housing Member is also seated with the City Council.**

### **VI. NON-CONSENT HOUSING AGENDA**

None

### **VII. CONSENT HOUSING AGENDA**

None

## **AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

### **VIII. NON-CONSENT AIRPORT AGENDA**

None

### **IX. CONSENT AIRPORT AGENDA**

1. \*Wichita Mid-Continent Airport, Airport Road Rehabilitation.

RECOMMENDED ACTION: Approve the Change Order and authorize the necessary signatures.

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## **COUNCIL AGENDA**

### **X. COUNCIL MEMBER AGENDA**

None

### **XI. COUNCIL MEMBER APPOINTMENTS**

- 1.

RECOMMENDED ACTION: Approve the Appointments.

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**XII. CONSENT AGENDA (ITEMS 1 THROUGH 17A)**

1. Report of Board of Bids and Contracts dated January 5, 2009.  
a. Report of Board of Bids and Contracts (See Attached)

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Mark Ryan	Ryan Boys West Inc. dba Two Brother BBQ*	8406 West Central
Jeff Clark	Ralph Wulz Riverside Tennis Center*	551 Nims
Eugene J. Pelz	Siesta Steak and Lounge*	15130 West Highway 54

<u>Renewal</u>	<u>2008</u>	<u>(Consumption off Premises)</u>
James T Ross	Rossco, Inc.	825 East Second
Robert G Garrison	Omkar LLC, dba Valero	1826 West 13th North

\* General/Restaurant 50% or more gross revenue from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates:  
b. Preliminary Estimates (See Attached)

RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:  
a. Storm Water Drain in Casco Addition, north of Pawnee, west of West Street. (District IV)  
b. Sanitary Sewer Projects in Northgate and Northgate Commercial Additions, north of 53rd Street North, west of Meridian. (District VI)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Agreements/Contracts:  
a. Agreement for the installation of Railroad Signals. (District VI)  
b. Aquifer Storage and Recovery, Phase II - Design of River Intake-supplemental agreement.  
c. Revision to Management Agreement, Finney State Office Building. (District I)  
d. Modification of Day Reporting Center Agreement Regarding Lease and Guaranty. (District VI)

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

6. Design Services Agreement:

- a. Monarch Landing Second Addition, north of 21st Street, west of 159th Street East. (District II)

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

7. Change Orders:

- a. Storm Water Drain in Woods North Addition, south of 29th Street North, west of 127th Street East. (District II)  
b. Waterman Improvement, between Main and Washington. (District I)  
c. Kellogg Drainage Improvement at Zelta. (District II)  
d. 13th Street Bridge at the Little Arkansas River. (District VI)  
e. 17th Street Drainage Improvement at the Central Railroad Corridor. (District VI)

RECOMMENDED ACTION: Approve the Change Orders and authorize the necessary signatures.

8. Property Acquisition:

- a. Acquisition of a portion of 796 north Saint Paul for the 9th Street Drainage Outfall Project. (District VI)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

9. Minutes of Advisory Boards/Commissions

Arts Council, November 13, 2008

Wichita Board of Appeals of Plumbers and Gas Fitters, October 1, 2008

Board of Appeals of Air Conditioning, Refrigeration Warm Air Heating and Boilers, December 18, 2008

Wichita Public Library, November 18, 2008

Wichita Historic Preservation Board, November 10, 2008

Board of Electrical Appeals, October 14, 2008

Wichita Board of Appeals of Refrigeration, Air Conditioning, Warm Air Heating, and Boiler, October 23, 2008

RECOMMENDED ACTION: Receive and file.

10. Acquisition by Eminent Domain of a portion of 3633 West Zoo Boulevard for the 9th Street Drainage Outfall Project. (District VI)

RECOMMENDED ACTION: Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District court to accomplish such acquisition.

11. General Obligation Bond and Note Sale.

RECOMMENDED ACTION: Adopt the amending resolution and authorize publication of the revised Notice of Sale.

12. Relocation of Westar Energy Electric Lines for the East Kellogg Freeway Project. (District II)

RECOMMENDED ACTION: Approve the payment to Westar Energy in the amount of \$270,520.

13. ICMA Public Library Innovation Grants.

RECOMMENDED ACTION: Approve the grant application, the grant award and authorize the necessary signatures.

14. Public Works-Engineering Project Management System.

RECOMMENDED ACTION: Approve the remaining budget.

15. Title Insurance, Abstract and Other Related Service- Selection of Vendor.

RECOMMENDED ACTION: Approve the selection of First American to provide title insurance, abstracts and other related services, and authorize all necessary signatures.

16. Senior Management Report for November 2008.

RECOMMENDED ACTION: Receive and file.

17. Second Reading Ordinances: (First Read December 16, 2008)

a. (See Attached)

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing, Request for Resolution of Support for Application for Housing Tax Credits; Inwood Crossings Senior Apartments (District I)

**INITIATED BY:** Housing and Community Services

**AGENDA:** Unfinished Business

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**Recommendation:** It is recommended that the City Council close the public hearing, adopt the resolution of support for the application for Housing Tax Credits, with waiver of the 20% market-rate unit requirement, subject to all local building and zoning codes, ordinances and any additional design review requirements, and authorize the necessary signatures.

**Background:** The Housing Tax Credit Program is administered by the Kansas Housing Resources Corporation. Enacted in the Tax Reform Act of 1986, the Housing Tax Credit Program is designed to secure private equity capital for the development of affordable rental housing. The Program can provide as much as 55%-60% of the total development cost, which reduces the amount of debt financing in affordable rental housing developments. This allows lower rents and greater affordability. The State receives a tax credit allocation from the Federal government, and requires developers/owners to obtain a resolution of support from the local government, when submitting applications for financing through the Program.

The City has received a request from LDG Development, for a City Council resolution of support for an application for Housing Tax Credits in connection with the development of the Inwood Crossings Senior Apartments, to be located at 3540 N. Inwood.

Under the City's adopted Housing Tax Credit policy, developers/owners must present proposed Housing Tax Credit projects to the applicable District Advisory Board (DAB). The policy also requires a review by the City's Development Coordinating Committee (DCC). The Planning Department and the Office of Central Inspection (OCI) also review the project for zoning and design appropriateness and provide comment regarding consistency with neighborhood plans, if applicable. Once the project is reviewed by the DAB, DCC, Planning and OCI, it is forwarded to the City Council for a public hearing, with a staff recommendation regarding the resolution of support for the Housing Tax Credit application.

**Analysis:** The project proposed by LDG involves construction of an apartment complex at 3540 N. Inwood, on a site immediately north of the Inwood Crossings Apartment complex, which is currently under construction. Upon completion, the new complex will offer 40 two-bedroom apartments and 10 one-bedroom apartments for a total of 50 units, which will be made available to senior citizens, age 55 and older. Amenities will include a clubhouse/community room, and, according to the site plan, landscaped walking paths. Monthly rent for the apartments will be \$622, for the two-bedroom apartments, and \$271 for the one-bedroom apartments, net of utility allowances. LDG Multifamily, LLC will serve as the project developer and the applicant/sponsor.

The City's HTC Policy requires a set-aside of 20% of the units for market-rate tenants. LDG is seeking a waiver of this requirement, as the apartment community will serve only senior citizens, a special needs population. The

City's policy provides for a waiver of the market-rate unit requirement when HTC apartment projects will only serve special needs populations. Thus, the project is eligible for the waiver.

The proposed project is consistent with the project scope contemplated in the resolution of support that was adopted by the City Council on May 15, 2007, for the neighboring Inwood Crossings Apartments.

The City's Planning Department has reviewed the proposed project. Planning staff members have indicated that the site is appropriately zoned for the proposed project, and that there is sufficient parking capacity given the apartment unit mix. Zoning compatibility setback standards will be reviewed, as part of the City's permit application and plan review process. Planning also suggested a pedestrian walkway to the commercial area immediately to the east. The Office of Central Inspection recommended berms and landscaping along Inwood, above and beyond the minimum landscape ordinance requirements, similar to the landscaping plan for the apartment complex immediately to the south. The City's traffic engineer will also review the site plan, in order to make certain that entrances are compatible with the existing street design.

Representatives of LDG presented the proposed project to a meeting of the K-96 Neighborhood Association on August 21, 2008, and DAB I voted (10-1) to recommend adoption of the resolution of support during its November 3, 2008 meeting, with waiver of the 20% market rate unit requirement. The DCC also voted to recommend adoption of the resolution of support.

Housing and Community Services (HCS) believes that the proposed project will provide safe, clean affordable rental housing for senior citizens. HCS recommends adoption of a resolution of support by the City Council, with waiver of the 20% market-rate unit requirement.

The resolution of support will not constitute final plan or design approval. If the project is awarded Housing Tax Credits, the project developer must comply with all requirements associated with appropriate plan reviews required for issuance of a City building permit. These reviews will include compliance with the City of Wichita's Housing Tax Credit Policy design guidelines. Further, the developer must comply with any additional reviews that may be requested by the City Council member in whose district the proposed project is planned.

**Financial Considerations:** The total project is estimated to be \$5,963,532. Financing includes proceeds from the sale of the HTC's in the amount of \$3,785,559, a mortgage loan in the amount of \$1,763,000, and deferred developer fees in the amount of \$414,973.

**Goal Impact:** The proposed project contributes to the City Council goal of Economic Vitality and Affordable Living.

**Legal Considerations:** The developer has complied with the Housing Tax Credit policy requirements as specified in City Council Resolution No. R 07-584. A resolution document has been approved as to form by the City Law Department.

**Recommendations/Actions:** It is recommended that the City Council close the public hearing, adopt the resolution of support for the application for Housing Tax Credits, with waiver of the 20% market-rate unit requirement, subject to all local building and zoning codes, ordinances and any additional design review requirements, and authorize the necessary signatures.

**Attachments:** Resolution document.

A RESOLUTION ESTABLISHING SUPPORT OF THE DEVELOPMENT OF  
AFFORDABLE HOUSING IN THE CITY OF WICHITA, KANSAS.

WHEREAS, the City of Wichita, Kansas has been informed by LDG Development that a housing tax credit application will be filed with the Kansas Housing Resources Corporation for the development of affordable rental housing to be located on a site legally described as follows:

Lot 1, except that part platted as Comotara Power Center Addition, and except the South 190.59 feet, Block 1, Killarney Plaza 2<sup>nd</sup> Addition to Wichita, Sedgwick County, Kansas

WHEREAS, this housing development will contain up to 50 apartment units (a combination of one-bedroom apartments and two-bedroom apartments), a clubhouse with a community room, and landscaped walking paths. Said residential development to be reserved for senior citizen tenants, age 55 and over.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS:

That the Governing Body of the City of Wichita, Kansas supports and approves the development of the aforesaid housing in our community, subject to city ordinances and the building permit process. This Resolution is effective until December 2, 2009. In the event that any of the characteristics mentioned above should change prior to the issuance of a building permit, this resolution is null and void.

This resolution does not constitute design or plan approval by the City of Wichita. The project design must comply with the City of Wichita's Housing Tax Credit Policy design guidelines, which will be determined by the Metropolitan Area Planning Department and the Office of Central Inspection, after the project is approved for tax credits. During that review, complete building plans may be submitted to the Council Member, at the Council Member's request, prior to issuance of a building permit.

All projects must comply with all applicable building codes, zoning codes, ordinances, and requirements.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, this 6<sup>th</sup> day of January, 2009.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney



**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Adoption of Ken Mar Center Redevelopment Project Plan (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Close the public hearing, approve first reading of the ordinance, approve the development agreement and adopt the bonding ordinance.

**Background:** On August 19, 2008, the City Council took the necessary legal steps to establish the Ken Mar Redevelopment District for the purpose of using tax increment financing ("TIF") to assist H. H. Holding, L.L.C. with the redevelopment of property located within the district. The action taken by the City Council established 2008 as the base year, from which the increase in property tax revenues (the tax increment) will be measured. The boundaries of the Redevelopment District are 13<sup>th</sup> Street on the south, Oliver Avenue on the east, 14<sup>th</sup> Street on the north, and Pershing Avenue to the west.

On November 4, 2008, the City Council adopted a resolution stating it is considering the adoption of the Redevelopment Project Plan and directed the City Clerk to give notice that a public hearing would be held on the matter on January 6, 2009. With the adoption of the redevelopment project plan, the County Treasurer will be authorized and directed to begin capturing the tax increment and distributing the money to the City to pay project costs.

**Analysis:** K.S.A. 12-1770 *et seq.* sets forth the procedures and requirements for the establishment of a TIF district and the capture of TIF revenue. In order for the County Treasurer to be authorized to set aside the increment of increased property tax revenues collected in the district, to pay for eligible redevelopment costs, the City must adopt a redevelopment project plan that describes the district and the projects being financed with the TIF, and also establishes the financial feasibility of the TIF to finance the public improvements. The statute also directs the City to prepare the redevelopment project plan "in consultation with the planning commission of the city." On October 23, 2008, the Wichita-Sedgwick County Metropolitan Area Planning Commission met to consider the Ken Mar Center Project Plan and found that the Plan is consistent with the general comprehensive plan for development of the City.

**PROJECT PLAN**

The plan for the redevelopment of the Ken Mar Center Project will consist of renovation and construction at the Ken-Mar Shopping Center at the Northwest corner of Oliver and 13th Streets, Wichita, Kansas.

**Existing Ken Mar Retail Strip Center and Single Tenant Building:**

The Developer will retain the two existing large structures centrally located within the project area. The Developer will perform extensive renovations to the interior and exterior of the buildings. The two buildings will comprise 74,000 square feet of updated commercial space. Minor work has begun, with the major renovations anticipated to begin in the first quarter of 2009 and completed in 2012.

#### Building Exteriors:

The Developer will replace a significant portion of the roof and make improvements to other areas of the roof. New facades will be constructed for both buildings, creating a more appropriate location for signage, while maintaining the convenience and protection of the wide overhang. The storefront will be completely replaced, as will the sidewalk along the storefront area. The exterior will be repainted, and exterior building lighting will be upgraded.

#### Building Interiors:

In conjunction with the addition of new tenants and the expansion of existing tenants, the Developer will construct new interior demising walls and upgrade or refurbish building services and finishes as needed.

#### Sitework:

The Developer intends to remove the current parking surface and repave the entire site (except out-parcel pad sites); install curbs, gutters and landscape islands; and install new site lighting. The site work is anticipated to begin the first quarter of 2009 and be completed in the third quarter of 2009.

#### Out-parcels:

The developer will create four new out-parcels for individual retail and restaurant users. Work will include future demolition of the building currently on the corner of 13th Street and Oliver Avenue after that current tenant is relocated. The Developer will construct three out-parcels along 13th Street and one out-parcel along Oliver Avenue. It is anticipated the out-parcels will be sold and buildings constructed by 2012.

### USE OF TAX INCREMENT FINANCING

Upon adoption of the redevelopment project plan, and the related bonding ordinance, the City will have established its authority under state law to issue general obligation bonds to finance \$2,500,000 of TIF-funded improvements, which bonds will be repaid from the incremental increase in property taxes resulting from the redevelopment of the Project Area. The TIF-funded improvements consist of the following:

- **Property acquisition** – The City will reimburse the developer for the purchase of the property within the Project Area for a total cost of \$827,100.
- **Site improvements** – The City will pay for construction of public improvements including utility extensions at an estimated cost of \$1,672,900.

The Financial Feasibility Study contained in the Redevelopment Project Plan examines the County's assessed valuation of the property located within the Ken Mar redevelopment district, with respect to the value of the property in the base year (2008) to the year in which planned redevelopment projects will be fully reflected in the County's database of property values (2014). The following table summarizes the revenue side of the analysis:

	2008 Base Year	2014 Projected
Appraised Value	\$2,015,700	\$11,364,495
Assessed Value	\$503,925	\$2,841,124
Captured Value	\$0	\$2,337,199
2007 Mill Levy*	96.550	96.550
Annual Tax Increment	\$0	\$225,657
Annual Debt Service	\$0	\$204,914

\*Aggregate mill levy available for TIF excludes the 20-mill statewide education levy.

The analysis assumes that only those projects which are currently planned will be constructed, that assessed property values in the district will grow over time, and that the 2007 City/County/School District mill levy will not increase or decrease. The analysis shows that the stream of projected tax increment revenues is

sufficient to retire the principal and interest on a \$2,750,000 taxable general obligation tax increment bond issue over a seventeen-year period.

## DEVELOPMENT AGREEMENT

The attached Development Agreement between the City and H.H. Holding L.L.C. provides the contractual framework for the redevelopment project. Under the terms of the agreement, the developer (H.H. Holding, L.L.C.) is obligated to construct the redevelopment project outlined above and the City is obligated to reimburse a portion of the purchase of the project site and to pay for the construction of the related public improvements listed above. In addition to all the terms, conditions and procedures for fulfilling these obligations, the Development Agreement also provides for a Tax Increment Shortfall Guaranty in which the developer and other private entities with ownership interest in the project are required to pay the City any shortfall in TIF revenue available to pay debt service on TIF bonds.

**Financial Considerations:** It is anticipated that the projects funded with tax increment financing will be financed with general obligation bonds. In the event that tax increment revenues fall short of projections, City-at-large funding will be required to supplement tax increment revenues.

**Goal Impact:** Economic Vitality and Affordable Living, Quality of Life, Core Area and Neighborhood. Redevelopment of blighted areas, and declining areas, are needed to avoid economic stagnation. Business prospects and workers seeking to relocate are attracted to a new city that takes care of its older sections.

**Legal Considerations:** The Law Department has reviewed and approved as to form the attached ordinance, which is required for the adoption of a redevelopment project plan under the state tax increment financing statutes, bonding ordinance needed to initiate the TIF-funded improvement projects and development agreement between the City and Developer. The notice for a public hearing on the City's intent to adopt the redevelopment plan has been given pursuant to law. In order to adopt the redevelopment plan, the ordinance must be approved by a two-thirds majority.

**Recommendations/Action:** It is recommended that the City Council close the public hearing and approve first reading of the ordinance adopting Ken Mar Center Project Plan, approve first reading of the bonding ordinance authorizing the TIF-funded improvements and approve the Development Agreement and authorize the necessary signatures.

Attachments:

Ken Mar Center Project Plan

Development Agreement between the City and H H Holding, LLC

Ordinance adopting the TIF Project Plan

Bonding Ordinance

ORDINANCE NO. 48-155

AN ORDINANCE ADOPTING A PROJECT PLAN  
FOR THE KEN MAR CENTER PROJECT  
IN THE KEN MAR REDEVELOPMENT DISTRICT

WHEREAS, by Ordinance No. 47-954 adopted August 19, 2008, the City of Wichita established a redevelopment district pursuant to K.S.A. 12-1770 et. seq., as amended, known as the Ken Mar Redevelopment District; and

WHEREAS, the City has prepared a Project Plan for the Ken Mar Center Project located within the Ken Mar Redevelopment District, and has given notice for said Project in accordance with K.S.A. 12-1772; and

WHEREAS, the Wichita Sedgwick County Metropolitan Area Planning Commission in action on October 23, 2008, has found that the Ken Mar Center Project Plan is consistent with the comprehensive general plan for the development of the community; and

WHEREAS, the Governing Body of the City of Wichita, Kansas, by Resolution number R-08-507 adopted November 4, 2008, set a public hearing to consider the adoption of the Redevelopment Project Plan on the 6th day of January, 2009, at 9:00 a.m. or thereafter, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas; and

WHEREAS, the Governing Body is authorized following the public hearing to adopt the Redevelopment Project Plan by Ordinance passed upon a two-thirds vote.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

1. The Ken Mar Center Project Plan, including the feasibility study, district plan, maps and boundary descriptions, and descriptions of the public improvement projects, is on file in the Office of the City Clerk, City Hall, 13<sup>th</sup> Floor, 455 N. Main, Wichita, Kansas, and is incorporated by reference as though fully set forth herein. Said Project Plan is hereby adopted as the Project Plan for the Ken Mar Redevelopment District.

2. This Ordinance shall be in force and effect from and after its passage, approval, and publication once in the official City paper.

ADOPTED AND PASSED BY THE GOVERNING BODY, not less than two-thirds (2/3) of the members elect voting in favor thereof, this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**City of Wichita**

**Ken Mar Redevelopment District**

**Ken Mar Center  
Project Plan**

**October 23, 2008**

**Prepared by City of Wichita  
Office of Urban Development**

## **I N D E X**

1. Comprehensive Financial Feasibility Study
2. Redevelopment District Plan
3. Map and Legal Description of Property to be Redeveloped
4. Relocation Assistance Plan
5. Description of Proposed Redevelopment Project
6. Plan Documents {draft}
7. City Council Ordinances and Resolutions
8. Metropolitan Area Planning Commission Resolution {draft}

*Comprehensive Financing Feasibility Study for the*  
*Ken Mar Center Project*  
*Within the*  
*Ken Mar Redevelopment District*  
*City of Wichita, Kansas*

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## Overview

Sections 12-1770 through 12-1780 of the Kansas Statutes (“the Act”) provide a means for cities to finance all or a portion of public infrastructure and redevelopment costs with incremental real estate and sales taxes. The purpose of the Act is to “promote, stimulate and develop the general and economic welfare of the State of Kansas and its communities, and to assist in the development and redevelopment of blighted areas and deteriorating areas which are not yet blighted, but may be so in the future, located within cities...”.

A city may exercise the powers conferred under the Act provided that the governing body of the city has adopted a resolution finding that the specific area sought to be developed or redeveloped is a blighted area, a conservation area or was designated an enterprise zone prior to July 1, 1992. In addition, the city must find that the conservation, development or redevelopment of such an area is necessary to promote the general and economic welfare of the city.

One or more redevelopment projects may be undertaken within the District. Kansas Statutes require projects to be completed within 20 years from transmittal of the redevelopment project plan pursuant to K.S.A. 12-1776, with the exception of environmental investigation and remediation projects which must be completed within 20 years from the date the City enters into a consent decree with the Kansas Department of Health and Environment or the U.S. Environmental Protection Agency, unless the County and School District have expressly consented to a 10-year extension of the term.

For each redevelopment project undertaken within the District, a redevelopment project plan (“the Project Plan”) must be prepared in consultation with the City Planning Commission. The Project Plan must include the following:

1. A summary or copy of the Comprehensive Financial Feasibility Study.
2. A reference to the statutorily required district plan for the District.
3. A description and map of the area to be redeveloped (“the Project”).
4. The Relocation Assistance Plan (if applicable).
5. A detailed description of all buildings and facilities proposed to be constructed or improved.
6. Any other information the City deems necessary to advise the general public of the intent of the Project Plan.

The Comprehensive Financial Feasibility Study (this document) must show that the benefits derived from the specified redevelopment project will exceed the costs, and that the income therefrom will be sufficient to pay for the applicable project costs. Benefits are determined to be the aggregate revenues of the redevelopment project including increment income, assessment income, interest income, private party contributions and any other available funding sources. Costs are determined to be the total of eligible project expenditures as defined by K.S.A. 12-1770a, including the payment of principal and interest of debt used to finance the redevelopment project.

Pursuant to all the provisions of the Act, the City of Wichita has, by Ordinance No. 47-954 dated August 19, 2008, found a portion of the City to be a conservation area and that redevelopment of the area is necessary to promote the general and economic welfare of the City. With adoption of Ordinance No. 47-954, the City established and designated such area as the Ken Mar Redevelopment District (“the District”). The District boundaries are shown in Exhibit I. Ordinance No. 47-954 also includes the statutorily required district plan for the redevelopment of the District.

The City is currently considering the adoption of a Project Plan for the proposed Ken Mar Center Project within the designated Ken Mar Redevelopment District (“the Project”). The Project consists of extensive renovation on the two larger structures including façade improvements, demising walls for more efficient tenant use of space and the addition of four out-parcels along 13<sup>th</sup> Street and Oliver Ave. Adoption of the Project Plan will allow the City to finance eligible Project costs associated with the redevelopment of property located in the vicinity of 13<sup>th</sup> Street and Oliver Avenue (the “Project Area”) as depicted in Exhibit I. Specifically, the City will reimburse some of the purchase of land and assist with the site preparation as its contribution to the Project.

The City will provide public funding, including tax increment financing to finance a portion of the costs of acquiring land, demolition and various public improvements. The City will enter into a development agreement with H.H. Holdings L.L.C., a local development group which will develop, own and operate the Project.

## **General Description of Tax Increment**

*Property tax increment financing* involves the creation of an increment (increase over a base value) in the real estate taxes that are generated from a defined geographic area of a community. Upon establishment of a redevelopment district, the total assessed value of all taxable real estate within the district for that year is determined. This valuation is referred to as the district's "Original Assessed Value". Property taxes attributable to the district's Original Assessed Value are annually collected and distributed by the county treasurer to the appropriate city, county, school district and all other applicable taxing jurisdictions in the same manner as other property taxes.

As new development occurs within the redevelopment district, the total assessed value of the district, in any given year, will normally exceed its Original Assessed Value. Property taxes generated by applying the sum of the property tax rates of all applicable taxing jurisdictions to the incremental increase in assessed value (over and above the Original Assessed Valuation) is referred to as the "property tax increment". All property tax increment is collected by the County and distributed to the City to be deposited in a special tax increment fund.

*Sales tax increment financing* involves the creation of an increment (increase over a base value) in the local sales taxes that are generated from a defined geographic area of a community. Upon establishment of a redevelopment district, a base value of local sales tax collections within the district is determined. As new commercial development occurs within the redevelopment district, sales tax collections are expected to increase above the base value. Pursuant to city law governing the use of local sales tax revenue, the City does not intend to collect incremental sales tax revenues as "sales tax increment".

Tax increment funds may only be used to pay for certain statutorily-defined eligible project costs, including principal and interest on debt issued, in whole or in part, to finance eligible project costs within the redevelopment district. Such debt includes notes, special obligation bonds, full faith and credit tax increment bonds, and other debt instruments. The City intends to issue its full faith and credit tax increment bonds to finance Project costs that are eligible for tax increment financing.

## **Project Description**

Prior to the commencement of redevelopment, the District and Project Area included a strip center, a large single tenant retail building and a pay-day loan business on the corner. The area is currently zoned light commercial and multi-family. Redevelopment will consist of extensive renovation to the two larger buildings, including new facades, new roof, addition of demising walls to improve efficiency of use for tenant space, and new sidewalks. The parking lot will be resurfaced with new lighting and landscape islands and four out-parcels will be developed along 13<sup>th</sup> Street and Oliver Avenue.

## **Projected Revenues (Benefits) Captured Assessed Value**

It is the City's intention to use the property tax increment generated by the District to pay the debt service on general obligation bonds issued by the City to finance its contribution to the Project. The property tax increment is based on the District's increase in assessed value over its Original Assessed Value. This increase in value is expected to be recorded in January in the years 2010-2014 and is referred to as the Captured Assessed Value.

The Total Assessed Value for the District as of January 1, 2014 is estimated to be \$2,841,124. The Original Assessed Value of the District, as assessed in January 1, 2008 for taxes payable in 2008-2009, is \$503,925, according to data provided by the City of Wichita Geographic Information Service Office. Therefore, the Captured Assessed Value of the TIF District as of January 1, 2014 is estimated to be \$2,337,199.

## **Property Tax Rates**

In order to determine the amount of tax increment generated by the District in any given year, the Captured Assessed Value of the District must be multiplied by the sum of the tax rates for all *applicable* taxing jurisdictions for that year. For taxes levied in 2007 and payable in 2008, the applicable rate is 96.550 mills as shown below. The State of Kansas rate of 1.5 mills and the statewide education levy of 20 mills are not applicable to TIF and have been omitted from the following total:

<u>Jurisdiction</u>	<u>Mill Rate (2007)</u>
City of Wichita	31.979
Sedgwick County	31.333
USD No. 259	<u>33.238</u>
 TIF-Applicable Mill Rate	 96.550

### **Projected Property Tax Increment**

The projected property tax increment generated by the District is shown in column 7 of Exhibit III. Such projections are based on captured assessed values derived from captured assessed valuations and tax rates as previously discussed. It is assumed that Project construction will begin in early 2009 and be completed before the end of 2012, with full occupancy by 2013, and therefore achieve full valuation by January 1, 2014. It is estimated that the full property tax increment will be \$225,657 starting in 2014.

All tax increment shall be allocated and paid by the Sedgwick County Treasurer to the City Treasurer in the same manner and at the same time as normal property taxes. All such taxes increment must be deposited in a special fund of the City for the payment of eligible redevelopment costs.

### **Projected Expenditures (Costs)**

A projected budget for the eligible project costs in the Project Area is listed below.

<b>Sources</b>	
Par Amount of Bonds	\$2,970,000.00
 <b>Uses</b>	
Land Acquisition	\$: 49,300.00
Demolition &	
Site Improvements	1,894,; 00.00
Financing and Other Costs	<u>472,000.00</u>
	\$2,970,000.00

It is anticipated that all eligible project costs will be financed with general obligation (full faith and credit) tax increment financing bonds issued by the City. Exhibit IV illustrates a \$2,830,000 taxable general obligation tax increment bond issue sold in early 2013.

## **Conclusions**

Kansas Statutes require that the Comprehensive Financial Feasibility Study must demonstrate that the benefits derived from the Project will exceed the costs, and that the income therefrom will be sufficient to pay for all eligible project costs. As previously discussed, Exhibit III illustrates the projections of tax increment through the year 2029. Net tax increment revenue is available to pay debt service on outstanding general obligation bonds issued to finance eligible project costs.

Exhibit IV (Projected Bond Cash Flow Report) illustrates that projected tax increment from the District will be sufficient to pay for all eligible project costs including the projected debt service on general obligation bonds issued to finance such costs. As such, this report demonstrates that the revenues (benefits) of the District and Project Area exceed the expenditures (costs).

City of Wichita, Kansas  
Ken Mar Redevelopment District  
Ken Mar Center Project

<u>2007 Mill Rates (2008 Pay)</u>	<u>Total</u>	<u>TIF Applicable</u>
City of Wichita	31.979	31.979
Sedgwick County	31.333	31.333
USD No. 259	53.238	33.238
State of Kansas	1.500	NA
<b>Total</b>	<b>118.050</b>	<b>96.550</b>

Property Value Inflation Rate	2.00%
Annual City Administration	\$0.00

Projected Tax Increment Report
--------------------------------

City of Wichita, Kansas  
Ken Mar Redevelopment District  
Ken Mar Center Project

Levy & Appraised Year (1)	Year Taxes Distributed (2)	Total Assessed Value (3)	Original Assessed Value (4)	Captured Assessed Value (5)	Mill Rate (6)	Tax Increment Collected (a) (7)	Less: City Admin. Fee (9)	Net Tax Increment (10)
2010	2011	876,406	503,925	372,481	96.550	35,963	0	35,963
2011	2012	1,375,593	503,925	871,668	96.550	84,160	0	84,160
2012	2013	2,002,411	503,925	1,498,486	96.550	144,679	0	144,679
2013	2014	2,841,124	503,925	2,337,199	96.550	225,657	0	225,657
2014	2015	2,897,946	503,925	2,394,021	96.550	231,143	0	231,143
2015	2016	2,955,905	503,925	2,451,980	96.550	236,739	0	236,739
2016	2017	3,015,023	503,925	2,511,098	96.550	242,447	0	242,447
2017	2018	3,075,324	503,925	2,571,399	96.550	248,269	0	248,269
2018	2019	3,136,830	503,925	2,632,905	96.550	254,207	0	254,207
2019	2020	3,199,567	503,925	2,695,642	96.550	260,264	0	260,264
2020	2021	3,263,558	503,925	2,759,633	96.550	266,443	0	266,443
2021	2022	3,328,829	503,925	2,824,904	96.550	272,744	0	272,744
2022	2023	3,395,406	503,925	2,891,481	96.550	279,172	0	279,172
2023	2024	3,463,314	503,925	2,959,389	96.550	285,729	0	285,729
2024	2025	3,532,580	503,925	3,028,655	96.550	292,417	0	292,417
2025	2026	3,603,232	503,925	3,099,307	96.550	299,238	0	299,238
2026	2027	3,675,296	503,925	3,171,371	96.550	306,196	0	306,196
2027	2028	3,748,802	503,925	3,244,877	96.550	313,293	0	313,293
2028	2029	3,823,778	503,925	3,319,853	96.550	320,532	0	320,532

EXHIBIT III



Projected Bond Cash Flow Report
---------------------------------

City of Wichita, Kansas  
Ken Mar Redevelopment District  
Ken Mar Center Project

Annual Period Ending (1)	Principal (2)	G.O. Interest Rate (3)	Interest (4)	P&I (5)	Net Tax Increment (7)	Annual Balance (8)	Cumulative Balance (9)
9/1/2011					35,963	35,963	35,963
9/1/2012	-	4.91%	-	-	84,160	84,160	120,123
9/1/2013	105,000	4.91%	135,071	240,071	144,679	(95,392)	24,730
9/1/2014	75,000	4.91%	129,914	204,914	225,657	20,743	45,473
9/1/2015	85,000	4.91%	126,230	211,230	231,143	19,913	65,385
9/1/2016	95,000	4.91%	122,055	217,055	236,739	19,683	85,069
9/1/2017	105,000	4.91%	117,389	222,389	242,447	20,057	105,126
9/1/2018	115,000	4.91%	112,232	227,232	248,269	21,037	126,163
9/1/2019	130,000	4.91%	106,583	236,583	254,207	17,624	143,786
9/1/2020	140,000	4.91%	100,198	240,198	260,264	20,066	163,852
9/1/2021	150,000	4.91%	93,322	243,322	266,443	23,121	186,973
9/1/2022	165,000	4.91%	85,954	250,954	272,744	21,790	208,763
9/1/2023	180,000	4.91%	77,850	257,850	279,172	21,322	230,085
9/1/2024	190,000	4.91%	69,009	259,009	285,729	26,720	256,805
9/1/2025	210,000	4.91%	59,677	269,677	292,417	22,740	279,545
9/1/2026	225,000	4.91%	49,362	274,362	299,238	24,876	304,421
9/1/2027	240,000	4.91%	38,311	278,311	306,196	27,885	332,306
9/1/2028	260,000	4.91%	26,523	286,523	313,293	26,770	359,075
9/1/2029	280,000	4.91%	13,753	293,753	320,532	26,779	385,854
	2,750,000		1,463,435	4,213,435	4,599,289	385,854	

# District Plan

## ***EXHIBIT “B”***

### **REDEVELOPMENT DISTRICT PLAN FOR THE REDEVELOPMENT OF THE KEN MAR REDEVELOPMENT DISTRICT THROUGH TAX INCREMENT FINANCING**

**July 8, 2008**

#### **SECTION 1: PURPOSE**

A district plan is required for inclusion in the establishment of a redevelopment district under K.S.A. 12-1771. The district plan is a preliminary plan that identifies proposed redevelopment project areas within the district, and describes in a general manner the buildings, facilities and improvements to be constructed or improved.

#### **SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME**

Projects financed through tax increment financing typically involve the creation of an “increment” in real estate property tax income. The increment is generated by segregating the assessed values of real property located within a defined geographic area such that a portion of the resulting property taxes flow to the City to fund projects in the redevelopment district, and the remaining portion flows to all remaining taxing jurisdictions. The portion of property taxes flowing to the City is determined by the increase in the assessed value of the properties within the redevelopment district as a result of the new development occurring within the same area. When the current aggregate property tax rates of all taxing jurisdictions are applied to this increase in assessed property value from new development, increment income is generated. Public improvements within the district and other qualified expenditures are funded by the City and repaid over a specified period of time with this increment income. The property taxes attributable to the assessed value existing prior to redevelopment, the “original valuation,” continue to flow to all taxing jurisdictions just as they did prior to redevelopment. This condition continues for the duration of the established district, as defined by statute, or until all eligible project costs are funded, whichever is of shorter duration.

#### **SECTION 3: DESCRIPTION OF THE DISTRICT BOUNDARIES**

All property located between the center line of 13<sup>th</sup> Street north on the south, the north right of way line of 14<sup>th</sup> Street north on the north, the center line of Oliver Avenue on the east and the west right of way line of Pershing Avenue on the west, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas.

#### **SECTION 4: BUILDINGS AND FACILITIES**

The district is located within the Central Northeast Area Plan, a plan for the redevelopment of existing older areas of Wichita. The buildings in the area were built in the 1950’s and along with the parking lot, are showing signs of deterioration due to deferred maintenance. The current property use is retail including a strip center, Dollar General, and payday loan company on the corner. The center currently includes a wide variety of businesses including a bank, hair care center, and pharmacy.

The proposed redevelopment district is an area that meets the criteria for designation as a

“conservation area” as defined by state law governing the establishment and financing of redevelopment districts. Property located within a conservation area is legally eligible for establishment of a redevelopment district.

## **SECTION 5: REDEVELOPMENT AND PROJECT AREAS**

It is anticipated that all property within district will be designated as the “project area” under the redevelopment project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any tax increment financing funds. The plans for redevelopment of the project area generally call for a full remodel and update of the two larger retail structures, new facades and the development of up to four out-parcels for additional commercial space. The existing parking surface and lighting will be replaced and additional lighting installed.

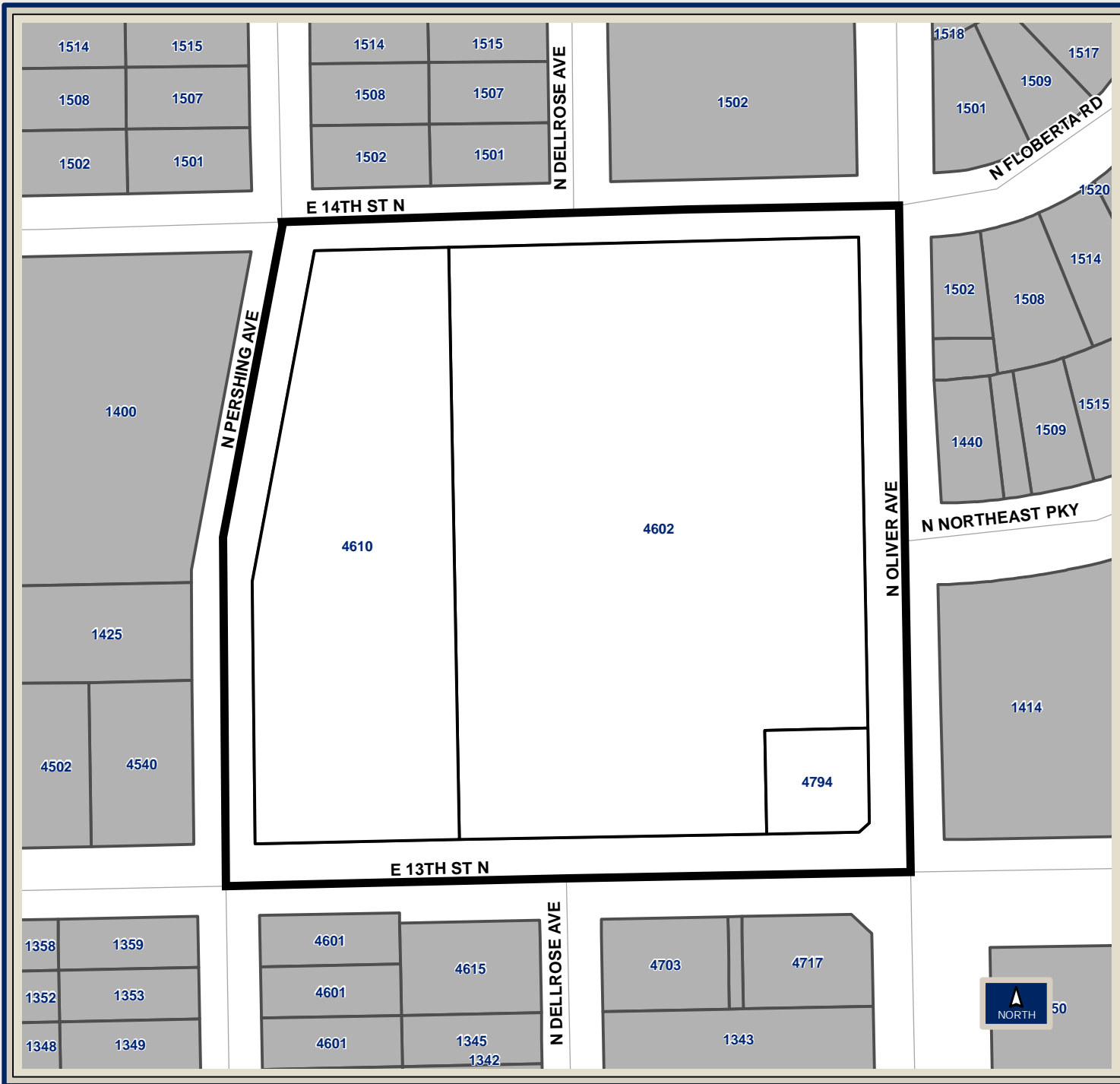
Tax increment financing may be used to pay for the purchase of real estate and site preparation including the demolition of structures and utility relocations, as well as on public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas. Tax increment financing may not be used for construction of any buildings owned by or leased to a private, nongovernmental entity.

## **SECTION 6: CONCLUSION**

After the establishment of the redevelopment district, any redevelopment projects to be funded with tax increment financing will be presented to the Governing Body for approval through the adoption of a Redevelopment Project Plan. The Project Plan will identify the specific project area located within the established tax increment financing district and will include detailed descriptions of the projects as well as a financial feasibility study showing that the economic benefits out-weigh the costs. The Project Plan must be reviewed by the Metropolitan Planning Commission and submitted to a public hearing following further notification of property owners and occupants, before it can be adopted by a two-thirds majority vote of the Governing Body. Only then can tax increment income be spent on the redevelopment projects.

Tax increment financing does not impose any additional taxes on property located within the redevelopment district. All property within the district is appraised and taxed the same as any other property. However, if property within the district increases in value as a result of redevelopment, the resulting increment of additional tax revenue is diverted to pay for a portion of the redevelopment costs.

# Map and Legal Description of Property to be Redeveloped



# Proposed Ken Mar Redevelopment District

City of Wichita, Kansas

-  Proposed Ken Mar Redevelopment District & Project Area
-  Property Parcels inside Redevelopment District
-  Property Parcels outside Redevelopment District

Software: ArcGIS 9.1  
Hardware: Dell Xeon  
Printer: HP 5000 Plotter

Map Data Source:  
Property Parcels  
provided by  
Sedgwick County GIS.

Road Centerlines  
provided by  
City of Wichita

Tuesday, June 24, 2008 2:26:21 PM  
X:\giswork\Projwork\NRA\kenMar.mxd

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS per



## EXHIBIT A

### **Legal Description of the Proposed Ken Mar Center Redevelopment Project Area**

All property parcels located between the center line of 13th Street North on the south, the north right of way line of 14th Street North on the north, the center line of Oliver Avenue on the east and the west right of way line of Pershing Avenue on the west, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas.

# **Relocation Assistance Plan**



## **RELOCATION ASSISTANCE PLAN**

(K.S.A. 12-1777)

Assistance for the relocation of persons, families or businesses from property acquired in conjunction with the Ken Mar Center Project is not required. No persons or families will be displaced as a result of the Project and no tenants will be relocated other than within the Project boundaries.

# **Description of Proposed Ken Mar Project**

# **Ken Mar Redevelopment District**

## **DESCRIPTION OF PROPOSED KEN MAR CENTER PROJECT**

The Ken Mar Center Project consists of the acquisition of real property and renovation and redevelopment of the existing Ken-Mar Retail Center at the northwest corner of Oliver Avenue and East 13th Street referred to as the “Project Area” (see attached district map) and the addition of four out-parcels and associated landscaping and infrastructure. The Project Area is currently owned by H.H. Holding L.L.C. (the “Developer”). In order to better accommodate the needs of existing tenants, attract new tenants and provide a safer more user friendly environment for tenants, customers and neighbors alike, the Developer plans to perform the work described below:

### **Existing Ken Mar Retail Strip Center and Single Tenant Building**

The Developer will retain the two existing large structures centrally located within the project area. The developer will perform extensive renovations to the interior and exterior of those buildings. The two buildings will comprise 74,000 square feet of updated commercial space. Minor work has begun, with the major renovations anticipated to begin in the first quarter of 2009 and be completed the first quarter of 2012.

### **Building Exteriors**

The Developer will replace a significant portion of the roof and make improvements to other areas of the roof. New facades will be constructed for both buildings, creating a more appropriate location for signage, while maintaining the convenience and protection of the wide overhang. The storefront will be completely replaced, as will the sidewalk along the storefront area. The exterior will be repainted, and exterior building lighting will be upgraded.

### **Building Interiors**

In conjunction with the addition of new tenants and the expansion of existing tenants, the Developer will construct new interior demising walls and upgrade or refurbish building services and finishes as needed.

### **Site Improvements and Out-Parcels**

#### **Sitework**

The developer intends to remove the current parking surface and repave the entire site; install curbs, gutters and landscape islands; and install new site lighting. The site work is anticipated to begin the first quarter of 2009 and be completed in the third quarter of 2009.

### **Out-parcels**

The developer will create four new out-parcels for individual retail and restaurant users. Work will include future demolition of the building currently on the corner of 13th Street and Oliver Avenue. The developer will construct three out-parcels along 13th Street and one out-parcel along Oliver Avenue. Construction is anticipated to begin the first quarter of 2009 and completed the third quarter of 2009. It is anticipated the out-parcels will be sold and buildings constructed by 2012.

### **USE OF TAX INCREMENT FINANCING**

The City of Wichita has undertaken the legal steps necessary to establish a redevelopment district pursuant to state laws (K.S.A. 12-1770 *et seq.*) in order to use tax increment financing (“TIF”) to fund a portion of the redevelopment project costs, subject to a development agreement with H.H. Holding, L.L.C. (“Developer”). Upon adoption of this project plan, the City will have established its authority under state law to issue general obligation bonds to finance the TIF-funded improvements, which bonds will be repaid from the incremental increase in property taxes resulting from the redevelopment of the Project Area. The TIF-funded improvements consist of the following:

- **Property acquisition** – The City will purchase or reimburse Developer for a portion of the acquisition cost of the property within the Project Area, for a total cost not-to-exceed \$827,100.
- **Public improvements** – The City will undertake the construction of the public improvements listed above, at an estimated cost of \$1,672,900.
- **Total TIF-funded costs** -- \$2,500,000.

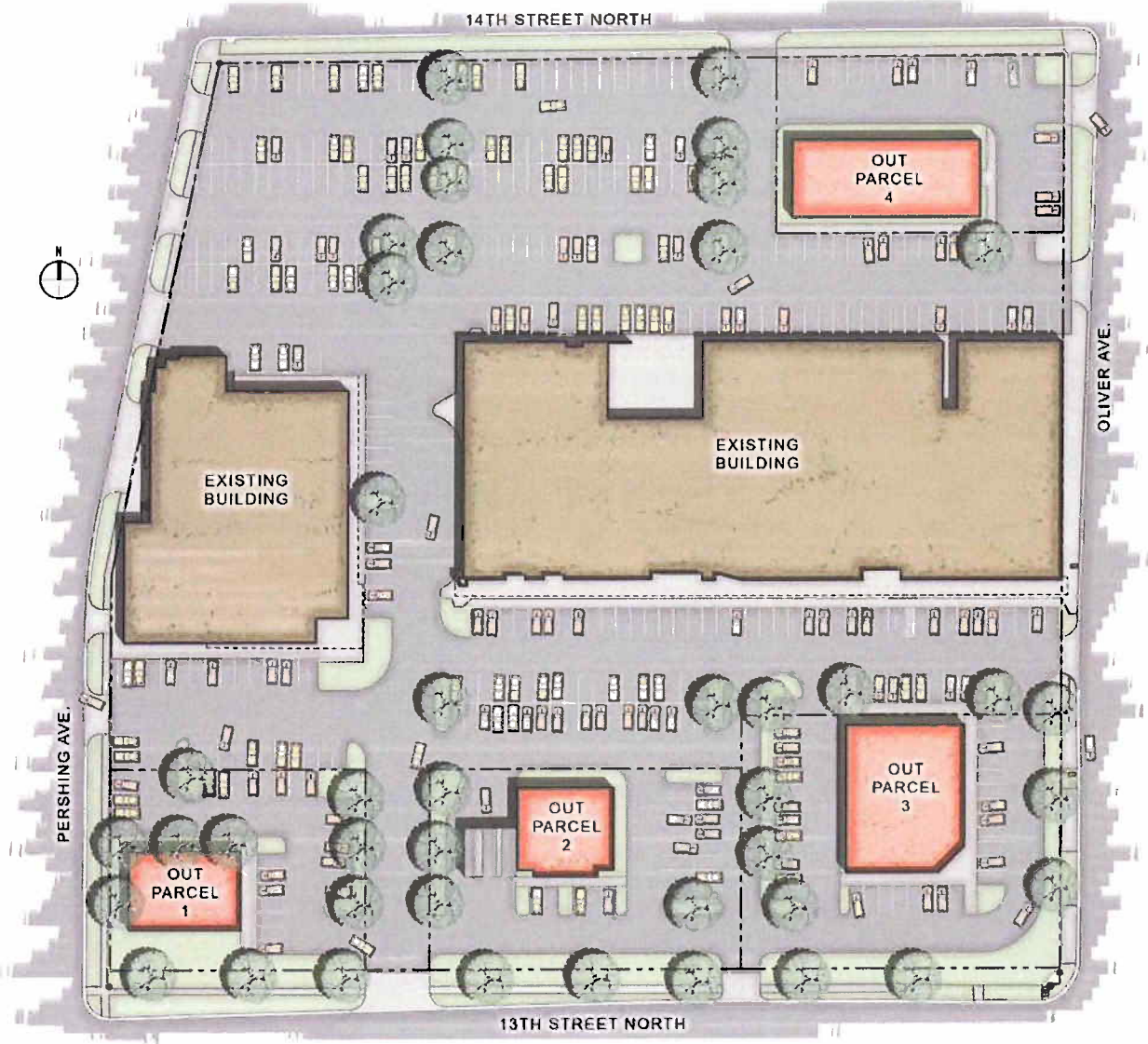




**PROVIDENCE SQUARE SHOPPING CENTER CONCEPT SOUTH ELEVATION**







12/19/08

DEVELOPMENT AGREEMENT  
REGARDING REVITALIZATION  
OF  
KEN-MAR SHOPPING CENTER  
(PROVIDENCE SQUARE)

---

CITY OF WICHITA, KANSAS  
AND  
H.H. HOLDING, LLC

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## **EXHIBITS**

A	Site Plans
B	Development Budget
C	Development Schedule
D	Development Concept
E	Schedule of Tax Projections
F	Legal Description – Project Land
G	City Nondiscrimination and Equal Employment Opportunity Requirements



**DEVELOPMENT AGREEMENT  
for  
KEN-MAR SHOPPING CENTER  
(PROVIDENCE SQUARE)**

THIS AGREEMENT is made this \_\_\_\_\_, 2009, between the **City of Wichita**, a corporate body politic and political subdivision of the State of Kansas (the “**City**”), and **H.H. Holding, LLC**, a Kansas limited liability company (“**H.H. Holding**” and “**Developer**”).

**Summary**

This Agreement concerns plans to revitalize the Ken-Mar Shopping Center at the northwest corner of Oliver and 13<sup>th</sup> Streets, Wichita, Kansas, with extensive renovation to the existing buildings (Phase I) and construction of new Pad Sites for retail use (Phase II). The Developer plans to rename the property to Providence Square.

**Background and Recitals**

The following Background and Recitals contain merely an overview of the Project, as defined below, and are not intended to fully describe the obligations of the City and the Developer. The specific terms and obligations are more fully set forth in the Agreement itself.

- (i) Developer has acquired the necessary title and other possessory rights to the Ken-Mar Shopping Center and has proposed a plan (“**Project**”) to the City for the Developer to renovate the Shopping Center.
- (ii) Completion of the Project will enhance the value, safety, and quality of the overall neighborhood as well as the Shopping Center.
- (iii) Developer will cause renovation and construction at the Ken-Mar Shopping Center Project to be completed according to the Development Plan. The City will assist with financing part of the Project through tax increment financing as allowable by state law.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, agree as follows:

**Section 1  
Definitions and Exhibits**

1.1 **Certain Definitions.** For purposes of this Agreement, each of the following terms, when used with an initial capital letter, shall have the following meaning:

**“Agreement”** means this Development Agreement.

**“City”** means the City of Wichita, a corporate body politic, and whenever this Agreement requires "approval of the City" or words of similar intent, that approval must come from the City Council, except as otherwise expressly provided herein.

**“City Council”** means the City Council of the City of Wichita.

**“City Improvement Expenditure”** means the sum not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) which the City shall fund in part for reimbursement of land acquisition, demolition, site preparation and such other “redevelopment project costs,” all as defined and permitted under K.S.A. 12-1770a, as amended.

**“City Representative”** means the City Manager of the City or his or her designee. The City Representative shall have full power and authority to implement the decisions of the City Council and to act on behalf of the City in the exercise of its rights and responsibilities under this Agreement. Developer may rely on the decisions and direction of the City Representative as the directions of the City; provided, however, if any action requires an amendment to this Agreement, it shall require the approval of the City.

**“Completed” or “Completion”** means, with respect to the Project (or Phase I or Phase II as the case may be) when: (a) the Project Architect certifies in writing to the City and Developer that construction is substantially completed in accordance with the Development Plan to permit use of the Project (or Phase) for the purposes for which it was intended, and (b) where applicable, a conditional or final occupancy permit has been issued, which date may precede the full completion of all punch-list items, and nonessential landscaping and similar design and development functions.

**“Contractors”** means the General Contractor and all other contractors, subcontractors, suppliers, persons, or entities that are engaged for construction or to provide labor, materials, supplies, or services of any kind in regard to the Project as selected by the Developer.

**“Developer”** means H.H. Holding, LLC (or its affiliate with the approval of the City Representative).

**“Developer Improvement Contribution”** means equity funds and Loan proceeds that Developer shall make available to develop and construct the Project as set forth in the Development Budget.

**“Development Budget”** means a budget or budgets, including modifications of the budget(s), for the total cost of development and construction of the Project, including design, development, financing, construction, furnishing, fixturing, landscaping, hardscaping, equipping and pre-opening, as approved by the City and attached as Exhibit B.

**“Development Concept”** means the Development Concept attached as Exhibit D.

**“Development Plan”** means the Site Plan, drawings and specifications, Development Schedule, and Development Budget for the Project as approved by the City and Developer at the time of execution of this Agreement and as the same are amended by Developer with the approval of City Representative from time to time. The Parties anticipate that the Development Plan will be amended from time to time to reflect changes in market conditions and economic demands and that such changes are within the scope and intent of this Agreement, so long as the changes are consistent with the original Development Concept. To the fullest extent permitted by applicable law and ordinance, the City Representative is authorized to approve Development Plan changes consistent with the Development Concept.

**“Development Schedule”** means the development schedule for the Project attached as Exhibit C.

**“Force Majeure”** means war, riots, civil commotion, strikes, labor disputes, embargoes, natural disasters, Acts of God or any other cause or contingency similarly beyond control of the Party whose performance is affected thereby, but shall not include weather delays caused by rain, snow, or the like.

**“General Contractor”** means the general contractor for the Project as selected by the Developer.

**“H.H. Holding, LLC,”** a Kansas limited liability company, means the “Developer.”

**“Ken-Mar Shopping Center”** means the Project Land and all improvements thereon (existing and to be built), generally located at the Northwest corner of Oliver and 13<sup>th</sup> Streets, Wichita, Kansas (to be renamed Providence Square).

**“Loan”** means a loan or loans from a lender(s) to Developer in an amount sufficient to allow Developer to complete the Developer Improvement Contribution.

**“Loan Commitment”** means a written loan commitment given to Developer from a lender(s) reasonably acceptable to the City in an amount sufficient to allow Developer to complete the Developer Improvement Contribution.

**“Pad Sites”** means at least four outparcels of land (unless a fewer number is approved by the City Representative) to be developed with new construction of free standing buildings.

**“Parties”** means, collectively, the City and Developer; **“Party”** means either of the Parties.

**“Phase”** means Phase I and/or Phase II as the context indicates.

**“Phase I”** means renovation of the existing structures at the Shopping Center consistent with the Development Concept (excluding Pad sites).

**“Phase II”** means development, sale, and/or leasing of the Pad Sites consistent with the Development Concept.

**“Project”** means development and construction of the Ken-Mar Shopping Center consistent with the Development Concept.

**“Project Architect”** means the architect for the Project as selected by the Developer.

**“Project Land”** means the tracts or parcels of land upon which the Project is located, generally at the northwest corner of Oliver and 13<sup>th</sup> Streets, Wichita, Kansas, together with all rights, privileges, licenses and easements appurtenant to such tracts, with legal descriptions given on Exhibit F.

**“Shopping Center”** means the Ken-Mar Shopping Center/Providence Square.

**“Site Plans”** means the elevation, drawings and plans depicting the appearance of the Project attached as Exhibit A.

**“Specialists and Consultants”** means the Project Architect and the Contractors, together with other planning, architectural, engineering, interior design and other specialists and consultants selected for the design and construction of the Project as selected by the Developer.

**“Tax Increment Shortfall”** means the amount equal to the difference between the amounts actually paid to the City by the Sedgwick County Treasurer as incremental property taxes collected for the Ken-Mar Redevelopment District, pursuant to K.S.A. 12-1770 *et seq.*, and the amount projected to be paid by the City as debt service on the City’s tax increment financing bonds as set forth in Exhibit E, commencing the first year in which a payment is due on the City tax increment financing bonds issued to finance the City’s costs hereunder provided that, for properties sold by the Developer to third parties, the incremental tax levy amount due for those properties will be used in determining the Tax Increment Shortfall, whether or not those taxes have been actually paid to the City. The attached Exhibit E is an example and will be replaced with an Exhibit E reflecting the actual interest rates and debt service after the bonds are sold.

1.2 Other Definitions. In addition to the terms defined in Section 1.1, other terms will have the definitions provided elsewhere in this Agreement.

1.3 Exhibits. The exhibits identified in this Agreement and attached to it, or otherwise identified by the signing or initialing of the Parties, are incorporated by reference and made a part of this Agreement as though they were fully set forth in the text of this Agreement.

## **Section 2**

### **Project**

2.1 Project. Developer shall provide the Developer Improvement Contribution and provide all services, equipment, materials, supplies, labor, and every article of any kind necessary

or appropriate for the planning, development, construction, and furnishing of the Project, all in accordance with the Development Plan.

2.2 Funding of Shopping Center Acquisition. Developer currently holds fee title to the Shopping Center subject to a mortgage to a commercial lender. Upon final approval and execution of this Agreement, City shall reimburse to Developer from the City Improvement Expenditure a portion of the acquisition costs for the Shopping Center in such amount as the City Representative shall determine is appropriate (this amount is expected to be approximately **Eight Hundred Twenty-Seven Thousand Dollars (\$827,000)**).

### **Section 3** **Construction Phase**

3.1 Conditions Precedent to Funding. The following matters shall be completed for each respective Phase or Pad Site before the City will be obligated to fund the site improvement costs for that portion of work on the Shopping Center.

3.1.1 Delivery of Documents. The documents listed below (or copies), as well as any other documents reasonably required prior to commencement of construction, have been delivered to the City Representative. When necessary, Developer shall also procure the requisite filings of such documents with the appropriate officials:

- (a) Construction permit and all other permits required before commencement of construction;
- (b) Policies or certificate(s) of insurance evidencing that Developer has procured all insurance required by this Agreement;
- (c) Satisfactory evidence to City Representative that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing under the laws of Kansas and the laws of its state of its domicile;
- (d) The Development Budget;
- (e) The Development Plan;
- (f) Performance and labor and material payment bonds as required by City's Charter Ordinance No. 203, dated September 19, 2006;
- (g) Executed copies of the construction contracts between Developer and the General Contractor, which include the contract between the General Contractor and the Project Architect;

- (h) Satisfactory evidence to the City Representative that Developer has secured financial commitments from lenders and/or investors sufficient to complete construction;
- (i) Such other documentation including plans and specifications, schematic drawings and renderings of the Project as may reasonably be requested by the City Representative to insure the orderly development of the Project;
- (j) Critical path schedule for the Project agreed upon by Developer and the City Representative; and
- (k) All approvals from the Historic Preservation Board, Design Council and all similar approvals needed for development of the Project, if any, have been obtained in writing; and
- (l) Developer has provided City Representative with its written waiver of its right to cancel this Agreement under Section 9.20.

3.1.2 Construction. Developer will cause commencement of construction of the Project to begin promptly upon funding of a portion of the acquisition costs described in Section 2.2 and will pursue Completion of construction with due diligence thereafter. (Developer may begin some construction work on the Project before funding of acquisition costs, but is not obligated to do so.) During construction Developer agrees to the following conditions and instructions (where applicable, to their respective parts of the Project):

- (a) To cause construction of the Project in a workmanlike manner, free of any material defects, in accordance with the final plans and specifications, and in accordance with all applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws);
- (b) To obtain all utility permits, certificates of occupancy, and all other licenses, permits and easements required for the operation of the Project;
- (c) Supervise the timely and efficient performance of the Contractors and the Specialists and Consultants under their respective contracts with Developer to enable them to perform their work in a timely, safe, professional and workmanlike manner.

3.2 Funding of Site Improvements. The City shall fund the remaining balance of the City Improvement Expenditure of approximately **One Million Six Hundred Seventy-Three Thousand Dollars (\$1,673,000)** upon timely submittal of invoices for work qualifying for funding under K.S.A. 12-1770 *et seq.* Payments shall be made to Developer from City within twenty (20) days after such invoices are properly submitted.

## **Section 4**

### **Additional Rights and Obligations**

4.1 Approvals. Whenever this Agreement requires the consent or approval of the City Representative, the City Representative, in his or her sole discretion, may instead present the question to the City Council for the necessary consent or approval. Notwithstanding the foregoing, the Parties intend that City Council approval shall not be required or necessary for changes in the Development Plan which do not affect the City's expenditures and are consistent with the Development Concept, unless otherwise required by law.

4.2 Title to Property. Developer shall own the Shopping Center free and clear of all liens and encumbrances, subject only to: leasehold interests, mortgages, liens and encumbrances placed thereon by Developer and real estate taxes and special assessments. The Development Budget contemplates that Developer may sell or lease the Pad Sites as part of the Project.

4.3 Development Assistance. The City will provide development assistance to Developer, as needed, to facilitate and expedite the issuance of building permits and compliance with other City-controlled requirements relating to completion of the Project.

4.4 Access to Site. The City will provide reasonable access to Developer for staging and work areas adjacent to the Shopping Center. Toward this end, the City will cooperate with Developer to close streets under established City procedure during agreed periods of demolition and construction.

## **Section 5**

### **Insurance, Bonding, and Indemnification**

5.1 Types of Coverage. Developer shall carry, or cause the General Contractor to carry, the following insurance coverage insuring Developer, General Contractor, and City where applicable through final completion (as defined in the construction contracts):

- (a) Special or builder's "all risk" insurance (including theft, vandalism, boiler, and pressure vessel coverage), in an amount reasonably acceptable to the City representative, insuring Developer's and City's interests in the Project and any and all furniture, equipment, supplies and other property owned, leased, held or possessed by Developer or City in the Project (insurance shall also insure against loss from collapse of any part of the building or other structural failure during construction);
- (b) Comprehensive general liability insurance insuring Developer and City against all liability for injury to or death of a person or persons and for damage to property in any way occasioned by or arising out of the activities of Developer, City, and their respective agents, contractors, or employees, in connection with the design and construction of the Project, in the amount of not less than Five Hundred Thousand Dollars (\$500,000) or in such other amounts as may be reasonably acceptable to Developer and the City; provided, however, such policies shall not name the City, or

insure the City, for an amount of coverage in excess of the City's maximum liability pursuant to the Kansas Tort Claims Act and amendments (and any similar law limiting the liability of the City);

- (c) Workers' compensation insurance;
- (d) Performance and labor and material payment bonds for the General Contractor as required by City Charter Ordinance No. 203;
- (e) Automobile insurance (if applicable) with per occurrence limits of not less than \$500,000; and
- (f) All other insurance as required by law.

5.2 Policy Requirements. The following general requirements shall apply to all insurance coverage carried by Developer and General Contractor pursuant to Section 5.1:

- (a) To the extent available, each policy shall contain a clause whereby the insurer waives all rights of subrogation against General Contractor, Developer, and City, as the case may be;
- (b) Subject to the limitations on general liability insurance in Section 5.1(b), the City shall be named as its interests appear in all policies obtained by Developer and General Contractor;
- (c) Such policies shall be with reputable insurance companies reasonably acceptable to Developer, City, and General Contractor and licensed to do business in Kansas;
- (d) Developer shall provide the City Representative with policies or certificates of insurance evidencing such coverage prior to the start of construction;
- (e) Within thirty (30) days prior to expiration of coverage, or as soon as practicable, renewal policies or certificates of insurance evidencing renewal and payment of premium shall be provided by Developer to the City Representative; and
- (f) The policies must be noncancelable unless the carrier provides to the City Representative thirty (30) days' prior written notice of cancellation.

5.3 Indemnification. Developer agrees to indemnify, hold harmless, and defend City and members of the City Council, officers, agents, and employees (collectively referred to as the **"City Indemnified Parties"**) from and against all loss, damage, liability, cost or expense including, but not limited to, attorneys' fees and court costs incurred or suffered by or claimed against any of the City Indemnified Parties by any person or entity by reason of injury, death, loss, or damage to any person, property, or business which arises, or is alleged to have arisen, from the negligence or willful misconduct of Developer, its officers, directors, agents, or employees.



The City's liability for any claims asserted by any person or entity by reason of injury, death, loss, or damage to any person, property, or business which arises, or is alleged to have arisen, from the negligence of willful misconduct of the City, its officers, directors, agents, or employees, shall be governed by the Kansas Tort Claims Act and other applicable laws of the State of Kansas.

## **Section 6**

### **Term and Survival**

The term of this Agreement shall commence upon the date of this Agreement and, unless terminated sooner as provided in this Agreement, shall end upon completion of the obligations of the parties as described herein. However, the following provisions of this Agreement shall survive beyond the end of the term: all representations and warranties, all agreements of indemnification, all obligations of conveyance of title, and limitations concerning the Cash Basis and Budget Laws.

## **Section 7**

### **Representations, Warranties, and Guaranties**

7.1 City. The City warrants and represents to Developer as follows:

- (a) It is a municipality and political subdivision of the State of Kansas, duly incorporated and validly existing under the laws of the State of Kansas.
- (b) It has full power and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the limitations expressed herein or otherwise imposed by law.
- (c) Neither the execution and delivery of this Agreement and the other documents contemplated herein nor the making of the City Improvement Expenditure will conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound, or constitutes a material breach thereunder.

7.2 Developer. Developer warrants and represents to City as follows:

- (a) It is a limited liability company duly organized, validly existing, and in good standing under the laws of Kansas.
- (b) It has the requisite power through Kevass Harding to execute the documents under this Agreement and to consummate the transactions contemplated thereby.
- (c) Neither the execution and delivery of the documents on its part, nor the making of the Developer Improvement Contribution, nor the construction of the Project will conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency,

body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound, or constitutes a material breach thereunder.

- (d) It is duly authorized and registered to carry on business in Kansas pursuant to the laws of Kansas.
- (e) Before commencement of construction, Developer will have examined the Shopping Center and made all other investigations it deems necessary to perform its duties under this Agreement and satisfy itself that there exists no condition on or about the Shopping Center that would materially hinder or prohibit development of the Project as described in the Development Plan. The warranty under this subparagraph (e) does not restrict Developer's right to cancel this Agreement as provided in Section 9.20.
- (f) All contracts with Contractors shall warrant that the work performed or material supplied by that Contractor to the Project will be free from any defects in materials and workmanship for a period of at least one (1) year from the date of Completion, and that such warranty does not restrict or otherwise limit that Contractor's obligation to construct the Project in a workmanlike manner and in accordance with the Development Plan as it pertains to that Contractor's work.
- (g) It shall use reasonable care to insure that all Specialists and Consultants selected in connection with the design and construction of the Project shall be highly qualified to do the work they are engaged to perform and Developer shall make reasonable inquiries as to such persons' background, experience and reputation to assure they are well qualified to undertake such work.

## **Section 8**

### **Tax Increment Shortfall Guaranty**

Developer agrees to pay the City any Tax Increment Shortfall amount in accordance with the terms of this Section 8. Annual Tax Increment Shortfall payments may be paid to the City in two installments, with the first installment equal to one-half the annual Tax Increment Shortfall amount payable within 90 days of receiving written notice and documentation that there is a Tax Increment Shortfall. The balance of the annual Tax Increment Shortfall amount shall be paid within 6 months of receipt of notice.

The base-year valuation of the Shopping Center is Two Million Fifteen Thousand Seven Hundred Dollars **(\$2,015,700)**. Tax increment financing bonds will be issued based on certain assumptions regarding construction, tax rates, tax payments, and an aggregate appraised valuation of Eleven Million Three Hundred Sixty-Four Thousand Four Hundred Ninety-Five Dollars **(\$11,364,495)**. The Tax Increment Shortfall guaranty of the Developer shall be released when the Shopping Center achieves an aggregate appraised valuation of at least **\$11,364,495** (as determined by the Sedgwick County Appraiser's Office).

## **Section 9**

### **General Provisions**

9.1 Governing Law. This Agreement and the legal relations between the Parties shall be governed by, construed and interpreted under the laws of the State of Kansas, and exclusive venue for all disputes and litigation shall be in Wichita, Kansas only.

9.2 No Waiver. No failure of a Party to exercise any power given under this Agreement or to insist upon strict compliance of another Party with its obligations hereunder, and no custom or practice of the Parties at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms of this Agreement.

9.3 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, between the Parties not embodied herein shall be of any force or effect.

9.4 Written Amendments. Any amendment to this Agreement shall not be binding on any of the Parties unless the amendment is in writing, is duly authorized, and is duly executed by the Parties to this Agreement.

9.5 Time of Essence. Time is of the essence of this Agreement.

9.6 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

9.7 Headings. The headings of the sections and subsections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

9.8 Notices. All notices required to be given under this Agreement shall be delivered in writing and delivered either by (a) hand delivery, and considered delivered upon receipt, (b) telefacsimile if followed by mailing a copy the same day by regular U.S. Mail, and considered delivered three business days thereafter, (c) certified mail, and considered delivered upon signed receipt or refusal to accept notice, or (d) nationally-recognized overnight delivery service, and considered delivered the next business day after the notice is deposited with that service for delivery. For notice purposes, the Parties agree to keep each other informed at all times of their current address(es). For purposes of notices or other written communications, the addresses of the Parties shall be as follows:

- (a) If to the City:  
City Manager  
City Hall, 13th Floor  
455 North Main Street  
Wichita, Kansas 67202  
Fax # (316) 268-4519  
and  
City Clerk  
City Hall, 13th Floor  
455 North Main Street  
Wichita, Kansas 67202  
and  
City Attorney  
City Hall, 13th Floor  
455 North Main Street  
Wichita, Kansas 67202  
Fax # (316) 268-4335
- (b) If to Developer:  
Dr. Kevass J. Harding  
5816 E. 48th St.  
Wichita, KS 67220  
Fax # (316) 618-6136  
and  
c/o Amanda Dobbins  
1 Point, LLC  
Attn: Asset Management Dept.  
156 N. Emporia  
Wichita, KS 67202  
Fax # (316) 262-2696  
and  
George Sherman  
Summit Holdings, LLC  
741 W. 2<sup>nd</sup> St.  
Wichita, KS 67203  
Fax # (316) 263-1161  
and  
Adams Jones Law Firm, P.A.  
Attn: Mert Buckley  
1635 N. Waterfront Parkway, #200  
Wichita, KS 67206  
Fax # (316) 265-9719.

9.9 Nondiscrimination and Equal Economic Opportunity. The Parties covenant and agree that in the performance of their duties and obligations under this Agreement and any other document, instrument, or agreement in connection with the transactions contemplated by this

Agreement, neither of the Parties, nor their respective agents, employees, officers, directors, consultants, contractors or subcontractors, will discriminate against any applicant for employment or employee because of race, color, religion, sex, national origin, age, handicapped or disability status, or veterans status. The Parties agree to adhere to the City's standard contracting requirements as they relate to Nondiscrimination and Equal Employment Opportunity as set forth in Exhibit G.

9.10 Severability. If any clause or provision of this Agreement is or becomes invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, then the remaining parts of this Agreement shall not be affected by such invalidity or unenforceability, and the remainder of this Agreement shall be enforced to the greatest extent permitted by law.

9.11 Licenses and Permits. It shall be the ultimate responsibility of Developer to secure all local licenses and permits required to be obtained by Developer or City with respect to construction, completion and occupancy of the Project, including any necessary building, occupancy, sewer and utility permits. The City shall cooperate with Developer and all Contractors to the extent permitted by law in connection with the issuance of these licenses and permits.

9.12 Documents. All as-built drawings, plans, specifications, and other documents prepared for the Project pursuant to this Agreement shall become or remain the property of Developer whether or not the Project is Completed.

9.13 Approvals. Whenever the approval or consent of a Party is required in this Agreement, such approval or consent shall not be unreasonably withheld, delayed or conditioned.

9.14 "Including." Whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, the words "including without limitation," and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

9.15 Binding Effect. Subject to the limitations of Section 9.16, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

9.16 Assignment. No Party may assign all or any part of its interest in this Agreement without the prior written consent of the other Parties, and any such assignment without such consent shall be void. However, the City may assign all or part of its interest to a city-established entity without approval of the other Parties so long as such assignee has the legal authority to fulfill the City's obligations under this Agreement and, to the extent that it does not have such authority, the assignment shall continue in effect but the City will remain obligated for such nonassignable or unauthorized obligations. Members of the Developer may pledge their membership interests in the Developer without the prior consent of the City Representative.

9.17 Brokerage Commissions. Except as noted below, both parties represent to the other that they have not discussed this Agreement or the subject matter thereof with any real estate broker, agent or salesperson so as to create any legal right in any such broker, agent or salesperson to claim a real estate commission or similar fee with respect to the transactions contemplated by this Agreement other than customary sales commissions for sale of the Pad Sites and other buildings at the Shopping Center as well as leasing commissions for the retail spaces at the Shopping Center. Both Parties hereby indemnify the other Party against and agree to hold the other harmless from any and all claims, suits, or judgments (including, without limitation, court costs and attorneys' fees incurred in connection with any such claims, suits or judgments) for any real estate commissions or similar fees arising out of or in any way connected with any claimed agency relationship with the indemnitor and relating to the transactions contemplated by this Agreement.

9.18 Cash Basis and Budget Laws. It is the intent of the Parties that the provisions of this Agreement are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101, et seq.) (the "Cash Basis Law") or the Kansas Budget Law (K.S.A. 79-2925) (the "Budget Law"). Therefore, notwithstanding anything to the contrary herein contained, the City's obligations under this Agreement are to be construed in a manner that assures that the City is at all times not in violation of the Cash Basis Law or the Budget Law.

9.19 Other Agreements. The Parties also covenant to negotiate and execute such additional documents as may be reasonably necessary to provide for the coordinated construction and operation of the Project.

9.20 Cancellation. In addition to other cancellation provisions under this Agreement, this Agreement may be cancelled by Developer before Developer has received any of the City Improvement Expenditure from the City if:

- < Developer concludes that the Project cannot be Completed within the Development Budget;
- < Developer is unable to obtain financing and equity sufficient to make the Developer Improvement Contribution; or
- < The Developer in its sole discretion determines that circumstances have changed that make the Project or future operations as projected unfeasible.

If Developer cancels this Agreement under the terms of this Section 9.20, then the Parties will pay their own expenses incurred to date, without seeking compensation from each other, and they shall have no further obligations toward each other.

9.21 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.

9.22 Force Majeure. If an act of Force Majeure so damages the Project that it cannot be Completed within the Development Budget, then additional days will be allowed in an amount equal to the number of days work is interrupted because of Force Majeure.

9.23 Relationships. Developer shall be an independent contractor for all purposes, and nothing contained in this Agreement, nor any actions of the Parties, shall be construed to create a partnership, joint venture, or agency relationship between the City and Developer. No one performing work on the Project under the direction of Developer, or under the direction of any of the Contractors, shall be deemed to be an employee of the City for any reason or purpose whatsoever.

CITY:  
City of Wichita

DEVELOPER:  
H.H. Holding, LLC

By: \_\_\_\_\_  
**Carl Brewer, Mayor**

By: \_\_\_\_\_  
**Kevass Harding**

Attest: \_\_\_\_\_  
**Karen Sublett, City Clerk**

Approved as to Form:

\_\_\_\_\_  
**Gary Rebenstorf, City Attorney**

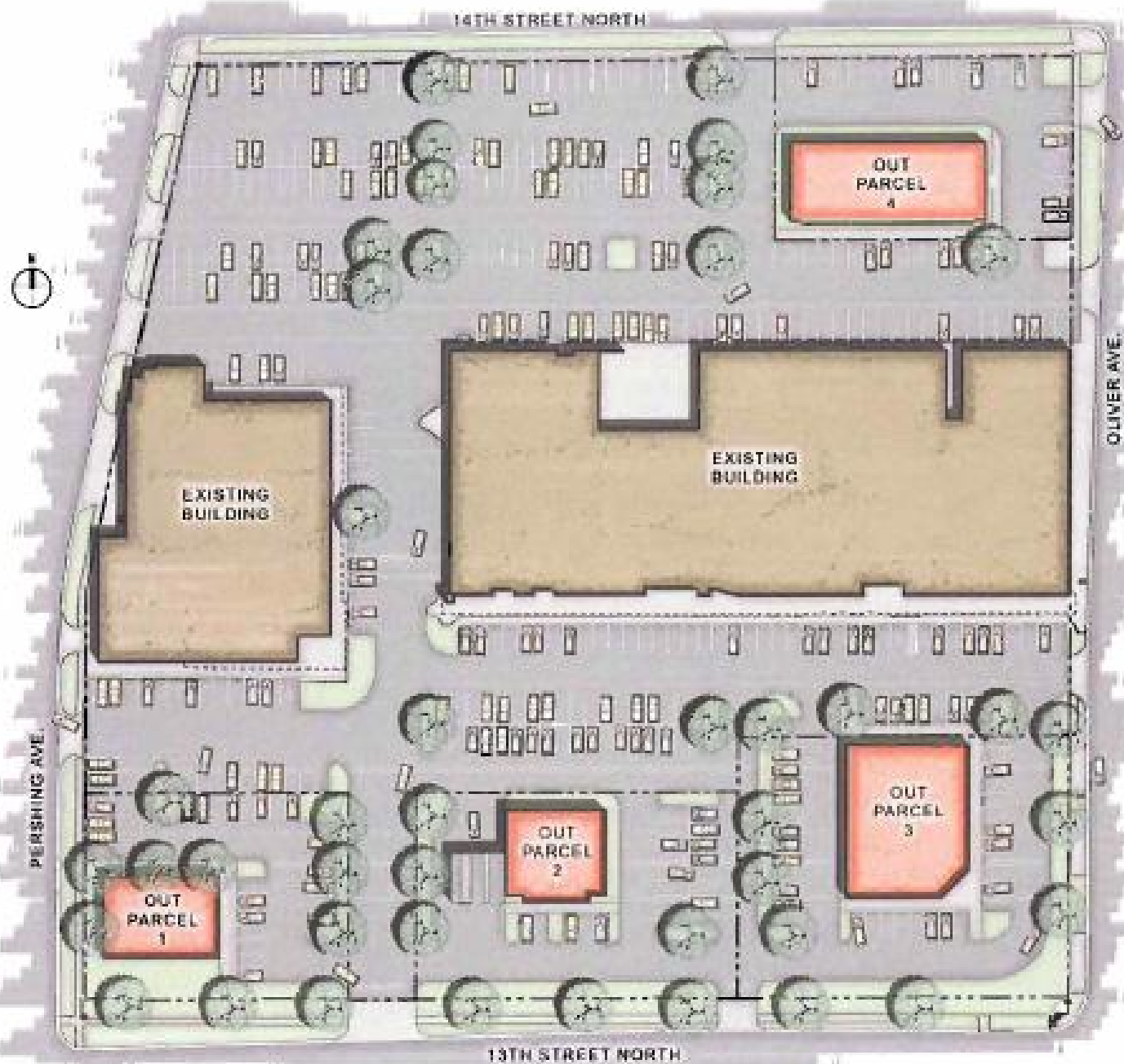
**EXHIBIT A**

**Site Plans**



**PROVIDENCE SQUARE SHOPPING CENTER CONCEPT SOUTH ELEVATION**





## **EXHIBIT B**

### **Development Budget**

<b>KEN MAR PROJECT BUDGET</b>	
Purchase Price	\$2,215,000
Site Costs / Utility Extensions	134,900
Design / Studies	145,000
Legal	60,000
Construction – Buildings	3,146,000
Construction – site improvements	1,538,000
Leasing Commissions	177,600
Miscellaneous / Travel	302,700
Construction Interest	230,998
Loan Costs	52,000
Contingency	100,000
<b>Total Uses of Funds</b>	<b>\$8,102,197</b>

## **EXHIBIT C**

### **Development Schedule**

The schedule for improvements at Ken-Mar will be affected by a number of factors:

- § Final approval of the development plan; zoning & platting approvals; and progress with leasing will all have a bearing on the final schedule for the façade work.
- § The construction schedule(s) for buildings on the out-parcels will be dependent on the completion of sales or ground leases.
- § Timing of any tenant related improvements will be driven by lease renewals and new leases.
- § The general state of the economy, especially as it pertains to retailers' expansion plans, will be an important factor in the overall completion of the planned improvements; as will the availability of suitable financing.

The following is a preliminary schedule of the major components of the work:

Development Agreement Approval:	January 6, 2008
Platting and Zoning:	Jan – March 2009
Site Engineering & Design Completion:	Jan – Feb 2009
Facade Improvement Design Completion:	Jan – Feb 2009
Site Work (site demolition, paving, utilities, lighting, site signs, etc.):	Jan – May 2009
Facade Construction:	Feb - Sep 2009
Pad Sites and Tenant Finish Work:	2009 – Jul 2013*

\* As Pads are sold and tenants are added

## **EXHIBIT D**

### **Development Concept**

The Project will consist of renovation and construction at the Ken-Mar Shopping Center at the Northwest corner of Oliver and 13<sup>th</sup> Streets, Wichita, Kansas (the “**Project**”).

#### **Existing Ken Mar Retail Strip Center and Single Tenant Building**

The Developer will retain the two existing large structures centrally located within the project area, comprised of 74,000 square feet of commercial space, unless otherwise approved by the City Representative. The Developer will perform extensive renovations to the interior and exterior of the buildings. The two buildings will comprise 74,000 square feet of updated commercial space. Minor work has begun, with the major renovations anticipated to begin in the first quarter of 2009 and completed in 2012.

#### **Building Exteriors**

The Developer will replace a significant portion of the roof and make improvements to other areas of the roof. New facades will be constructed for both buildings, creating a more appropriate location for signage, while maintaining the convenience and protection of the wide overhang. The storefront will be completely replaced, as will the sidewalk along the storefront area. The exterior will be repainted, and exterior building lighting will be upgraded.

#### **Building Interiors**

In conjunction with the addition of new tenants and the expansion of existing tenants, the Developer will construct new interior demising walls and upgrade or refurbish building services and finishes as needed.

#### **Site Improvements and Out-Parcels**

##### **Sitework**

The Developer intends to remove portions of the current parking surface as needed and repave the entire site (except Pad Sites); install curbs, gutters and landscape islands; and install new site lighting. The site work is anticipated to begin in the first quarter of 2009 and be completed in the third quarter of 2009.

##### **Out-parcels**

The developer will create four new out-parcels for individual retail and restaurant users. Work will include future demolition of the building currently on the corner of 13<sup>th</sup> Street and Oliver Avenue if that current tenant can be relocated. The Developer will construct three out-parcels along 13<sup>th</sup> Street and one out-parcel along Oliver Avenue (if the current tenant can be relocated). It is anticipated the out-parcels will be sold and buildings constructed by 2012.

## EXHIBIT E

### Projected Debt Service Schedule City of Wichita, Kansas – Tax Increment Financing Bonds Ken-Mar Shopping Center

City of Wichita, Kansas							
Ken Mar Redevelopment District							
Ken Mar Center Project							
Annual		G.O.			Net		
Period		Interest			Tax	Annual	Cumulative
Ending	Principal	Rate	Interest	P&I	Increment	Balance	Balance
(1)	(2)	(3)	(4)	(5)	(7)	(8)	(9)
9/1/2011					35,963	35,963	35,963
9/1/2012	-	4.91%	-	-	84,160	84,160	120,123
9/1/2013	105,000	4.91%	135,071	240,071	144,679	(95,392)	24,730
9/1/2014	75,000	4.91%	129,914	204,914	225,657	20,743	45,473
9/1/2015	85,000	4.91%	126,230	211,230	231,143	19,913	65,385
9/1/2016	95,000	4.91%	122,055	217,055	236,739	19,683	85,069
9/1/2017	105,000	4.91%	117,389	222,389	242,447	20,057	105,126
9/1/2018	115,000	4.91%	112,232	227,232	248,269	21,037	126,163
9/1/2019	130,000	4.91%	106,583	236,583	254,207	17,624	143,786
9/1/2020	140,000	4.91%	100,198	240,198	260,264	20,066	163,852
9/1/2021	150,000	4.91%	93,322	243,322	266,443	23,121	186,973
9/1/2022	165,000	4.91%	85,954	250,954	272,744	21,790	208,763
9/1/2023	180,000	4.91%	77,850	257,850	279,172	21,322	230,085
9/1/2024	190,000	4.91%	69,009	259,009	285,729	26,720	256,805
9/1/2025	210,000	4.91%	59,677	269,677	292,417	22,740	279,545
9/1/2026	225,000	4.91%	49,362	274,362	299,238	24,876	304,421
9/1/2027	240,000	4.91%	38,311	278,311	306,196	27,885	332,306
9/1/2028	260,000	4.91%	26,523	286,523	313,293	26,770	359,075
9/1/2029	280,000	4.91%	13,753	293,753	320,532	26,779	385,854
	2,750,000		1,463,435	4,213,435	4,599,289	385,854	

## **EXHIBIT F**

### **Legal Descriptions – Project Land**

Reserve C, in Ken-Mar Addition to Wichita, Sedgwick County, Kansas, except that part condemned for street in District Court Case No. 84C2124.

## **EXHIBIT G**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
  
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
  
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the



Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF FULL FAITH AND CREDIT TAX INCREMENT BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COSTS OF ACQUIRING REAL PROPERTY, DEMOLITION, SITE PREPARATION WORK AND UTILITY EXTENSIONS IN THE KEN MAR CENTER REDEVELOPMENT PROJECT AREA.**

WHEREAS, Article 12, Section 5 of the Kansas Constitution empowers cities to determine their local affairs and government; and

WHEREAS, the City of Wichita, Kansas (the "City") desires to promote, stimulate and develop the general economic welfare and prosperity of the City and its environs, to provide for commercial redevelopment of declining areas, avoid economic stagnation and maintain attractive neighborhoods; and

WHEREAS, the proposed Project Plan for the Ken Mar Center Project (the "Redevelopment Project"), located within the Ken Mar Redevelopment District, has been found by the Wichita Sedgwick County Metropolitan Area Planning Commission to be consistent with the comprehensive general plan for the development of the community, and is under consideration concurrently herewith; and

WHEREAS, the Governing Body of the City has found and determined that it is necessary and desirable, and in the interest and for the general economic welfare of the City and its inhabitants, that the City reimburse developer for the acquisition of land to be used for the Redevelopment Project and construct certain site improvements in the area of the Redevelopment Project; and

WHEREAS, under the authority of Article 12, Section 5 of the Kansas Constitution and K.S.A. 12-1770, *et seq.*, the Governing Body of the City hereby finds and determines that it is necessary and desirable and in the interest and for the general economic welfare of the City and its inhabitants, that full faith and credit tax increment bonds of the City, in an amount not to exceed \$2,750,000, exclusive of the costs of interest on borrowed money, be authorized and issued for the purpose of paying all or a portion of the costs of the land acquisition, demolition and public improvements referred to in the preceding clause,

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:**

**SECTION 1.** That it is necessary to reimburse the developer for the acquisition of real property located within the project area of the Ken Mar Redevelopment District and to construct certain site improvements located within the project area of the Ken Mar Center Redevelopment District.

**SECTION 2.** The governing body hereby declares it to be its intention to issue and sell, in the manner provided by law, full faith and credit tax increment bonds (the “Bonds”) under the authority of Article 12, Section 5 of the Kansas Constitution and K.S.A. 12-1770 *et seq.*, to pay all or a portion of the costs of acquiring the property located within the Ken Mar Center Project Area and to construct certain site improvements located within the project area of the Ken Mar Redevelopment District. The costs of such acquisition and improvements, or a portion of such costs, shall be paid by the issuance of full faith and credit tax increment bonds as aforesaid in an amount not to exceed \$2,750,000, exclusive of the costs of interest on borrowed money.

**SECTION 3.** It is hereby further authorized, ordered and directed that in order to temporarily finance the aforesaid costs prior to the issuance of the Bonds as hereinbefore provided, there may be issued temporary improvement notes (the “Notes”), the aggregate amount of which shall not exceed the sum of \$2,750,000, exclusive of the cost of interest on borrowed money, such Notes to be issued from time to time upon subsequent ordinance of the City which shall provide and set forth the details of the Notes, including the fixing of the dates, terms, denominations, interest rates and maturity dates thereof. Such Notes shall be issued and provision shall be made therefor as funds are needed and required for the orderly completion of the aforesaid land acquisition and improvements. Any Notes issued under the authority of this Section shall be issued under and will contain a recital that they are issued under the authority of K.S.A. 10-123 and K.S.A. 12-1774, as amended and supplemented, and Article 12, Section 5 of the Kansas Constitution, and shall contain all other usual and required recitals and covenants and be in the form required therefor by said K.S.A. 10-123, as amended and supplemented; and said Notes may be issued in combination with any other temporary notes being issued by the City as shall be determined by the Governing Body at the time of such issuance to be in the City's best interests.

**SECTION 4.** This Ordinance shall take effect and be in force from and after its passage and publication one time in the official City paper.

**PASSED AND APPROVED BY** the Governing Body of the City of Wichita, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law



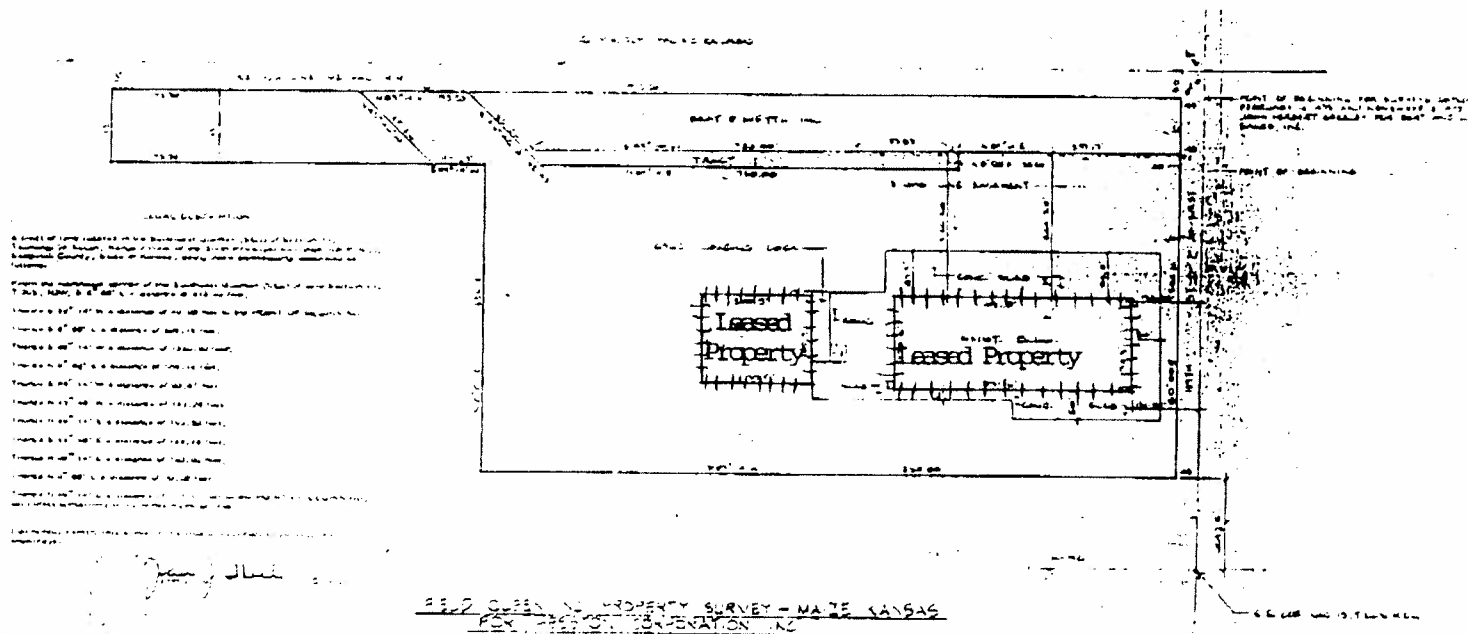
Schedule I  
Exhibit A  
Coleman Beacon Plant

Only that portion of the property commonly known as the Coleman Beacon Plant, 5605 North 119th Street West, Maize, Kansas 67101, and more specifically with the following description:

The Southeast Quarter (SE 1/4) of Section 13, Township 26 South, Range 2 West of the Sixth Principal Meridian (6th P.M.), Sedgwick County, Kansas, being more particularly described as follows: From the Northeast corner of the SE 1/4 of Sec. 13, T26S, R2W of the 6th P.M., Sedgwick County, Kansas, S. 00°00' E., a distance of 910.83' to the point of beginning; thence S. 00°00' E., a distance of 586.16'; thence S. 89°14' W., a distance of 1290.00'; thence N. 00°00' E., a distance of 556.16'; thence S. 89°14' W., a distance of 90.67'; thence N. 45°46' W., a distance of 185.26'; thence N. 89°14' E., a distance of 193.50'; thence S. 45°46' E., a distance of 185.26'; thence N. 89°14' E., a distance of 750.00'; thence N. 00°00' E., a distance of 30.0'; thence N. 89°14' E., a distance of 437.17' to the point of beginning, containing 17.35 acres more or less.

The East 40.0' of the above described tract being reserved for road purposes.

upon which the machinery and equipment which constitutes the Project is installed and which is particularly shown on the diagram hereinbelow.



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE AMENDMENT OF THE TRUST  
INDENTURE, THE SITE LEASE AND THE LEASE, TO RELEASE  
CERTAIN REAL ESTATE FROM THE PROVISIONS THEREOF,  
RELATING TO TAXABLE INDUSTRIAL REVENUE BONDS (THE  
COLEMAN COMPANY, INC.) OF THE CITY OF WICHITA, KANSAS.**

**WHEREAS**, the Issuer has heretofore determined that it is desirable in order to promote stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its taxable industrial revenue bonds for the purpose of purchasing acquiring, constructing and equipping improvements and additions to existing facilities located in the city of Wichita, Kansas and the city of Maize, Kansas (collectively, the "Project"); and

**WHEREAS**, the Issuer previously issued its Taxable Industrial Revenue Bonds, Series VIII, 1993 (The Coleman Company, Inc.) (the "1993 Bonds"), in the original principal amount of \$10,036,800, its Taxable Industrial Revenue Bonds, Series XIII, 1998 (The Coleman Company, Inc.) (the "1998 Bonds"), in the original principal amount of \$6,565,160, its Taxable Industrial Revenue Bonds, Series XVI, 1999 (The Coleman Company, Inc.) (the "1999 Bonds"), in the original principal amount of \$5,211,281.50, its Taxable Industrial Revenue Bonds, Series VII, 2000 (The Coleman Company, Inc.) (the "2000 Bonds"), in the original principal amount of \$14,871,447.43; its Taxable Industrial Revenue Bonds, Series XIV, Series 2001 (The Coleman Company, Inc.) (the "2001 Bonds"), in the original principal amount of \$12,165,214.24, its Taxable Industrial Revenue Bonds, Series IX, 2002 (The Coleman Company, Inc.) (the "2002 Bonds"), in the original principal amount of \$13,519,041.38, its Taxable Industrial Revenue Bonds, Series IX, 2004 (The Coleman Company, Inc.) (the "2004 Bonds"), in the original principal amount of \$17,970,208, its Taxable Industrial Revenue Bonds, Series VIII, 2005 (The Coleman Company, Inc.) (the "2005 Bonds"), in the original principal amount of \$10,085,623.22; its Taxable Industrial Revenue Bonds, Series VII, 2006 (The Coleman Company, Inc.) (the "2006 Bonds"), in the original principal amount of \$5,498,669.78, its Taxable Industrial Revenue Bonds, Series VIII, 2007 (The Coleman Company, Inc.) (the "2007 Bonds"), in the original principal amount of \$23,862,092.81 and its Taxable Industrial Revenue Bonds, Series IX, 2008 (The Coleman Company, Inc.) (the "2008 Bonds"), in the original principal amount of \$6,347,135.72 (collectively, the "Bonds") pursuant to a Trust Indenture dated as of December 1, 1993, as amended and supplemented (the "Original Indenture"), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri, as trustee (the "Trustee"), for the purpose of purchasing, acquiring, constructing and equipping the Project, as more fully described in the Indenture; and

**WHEREAS**, in connection with the issuance of the 1993 Bonds, The Coleman Company, Inc., a Delaware corporation (the "Tenant") leased certain real property and existing improvements thereon (the "Land") on which the Project is located to the Issuer pursuant to a Site Lease dated as of December 1, 1993 (the "Site Lease"); and

**WHEREAS**, in connection with the issuance of the Bonds, the Issuer leased the Project, including the Land, to the Tenant pursuant to the terms of a Lease dated as of December 1, 1993, as amended and supplemented (the "Lease"), by and between the Issuer and the Tenant; and

**WHEREAS**, the Issuer has received a request from the Tenant that an amendment to the Indenture, the Site Lease and the Lease be approved in connection with the sale and release of a portion of the Land as more fully described on **Schedule I, Exhibit A** attached hereto (the “Released Land”) and that the Issuer and the Trustee enter into a First Amendment to Trust Indenture (the “First Amendment to Indenture”), the First Amendment to Site Lease (the “First Amendment to Site Lease”) and the Second Amendment to Lease (the “Second Amendment to Lease”) in connection with the release of the Released Land from the provisions of the Indenture, the Site Lease and the Lease; and

**WHEREAS**, the First Amendment to Indenture, the First Amendment to Site Lease and the Second Amendment to Lease are herein collectively referred to as the “Release Documents”; and

**WHEREAS**, the Trustee, the Tenant and 100% of the Bondowners have or will consent to the execution of the Release Documents; and

**WHEREAS**, the Governing Body of the Issuer deems it advisable to approve the execution of the Release Documents in connection with the release of the Released Land.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Approval and Execution of the Release Documents.** The Governing Body of the Issuer hereby deems it desirable and hereby approves and authorizes the proposed amendments of the Indenture, Site Lease and Lease to release the Released Land from the provisions thereof, contingent upon receipt of all necessary approvals and consents and the compliance with all requirements of the Indenture, the Site Lease, the Lease and other Bond documents, and the Mayor is hereby authorized and directed to execute and deliver the Release Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance (copies of said documents shall be filed in the records of the Issuer) for and on behalf of and as the act and deed of the Issuer. The City Clerk or any Deputy City Clerk is hereby authorized and directed to attest to and affix the Issuer's official seal to the Release Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 2. Further Authority.** The officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 3. Effective Date.** This Ordinance shall take effect and be in full force and effect from and after its passage by the Governing Body of the Issuer, signature by the Mayor and publication once in the official newspaper of the Issuer.

*[Remainder of page intentionally left blank.]*

**PASSED** by the Governing Body of the City of Wichita, Kansas, and approved by the Mayor on January 13, 2009.

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney



**Schedule I  
Exhibit A  
Coleman Downtown Offices**

Only that part of the real estate commonly known as The Coleman Company, Inc. Downtown Offices located at 250 North St. Francis Avenue, Wichita, Sedgwick County, Kansas 67202 upon which machinery and equipment which constitutes part of the Project is installed and which part of said real estate is more particularly described as:

Lots 35, 37, 39 and 41 of J. R. Mead's Addition to Wichita,  
Sedgwick, County, Kansas

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council

**SUBJECT:** Release of Property (The Coleman Company) (District VI)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

---

**Recommendation:** Place the ordinance on first reading.

**Background:** In 1993, City Council approved the issuance of \$10,036,800 in Industrial Revenue Bonds (“IRBs”) for The Coleman Company (“Coleman”) to finance the new corporate headquarters on North Hydraulic. The City also entered into a Site Lease, Lease, and Indenture with Coleman securing the IRBs with all Coleman land and improvements in Wichita and Maize, including the property located at 250 N. St. Francis in downtown Wichita. The property securing the 1993 IRBs has carried through in subsequent bond issues. The company is requesting the release the property at 250 N. St. Francis from lien of outstanding bond documents.

**Analysis:** In order to facilitate the possible sale of its downtown property, Coleman has requested the City to release and convey that property pledged in outstanding bond documents. Bond documents will be amended to exclude Coleman’s property at 250 N. St. Francis by consent of the parties to the Lease, Site Lease and Indenture. All other terms of the original bond documents will remain. The bonds are all owned by Coleman, so bondholder consent is not required.

**Financial Considerations:** Coleman will be responsible for any expenses incurred in documenting the necessary amendments and publishing the authorizing Ordinance. The property to be released from the bond documents is no longer exempt from ad valorem taxes.

**Goal Impact:** Economic Vitality and Affordable Living. Cooperating with the Tenant and Trustee on IRB issues is a necessary part of preserving the credibility and integrity of the City’s IRB program for future projects.

**Legal Considerations:** The City Attorney’s Office has approved the ordinance as to form and will approve amended documents prior to execution.

**Recommendations/Actions:** It is recommended that the City Council place on first reading the Ordinance authorizing amendments to bond documents to release and convey Coleman’s downtown property and authorize necessary signatures.

**Attachments:** Ordinance

**ORDINANCE NO. 48-154**

**AN ORDINANCE AUTHORIZING THE AMENDMENT OF THE TRUST INDENTURE, THE SITE LEASE AND THE LEASE, TO RELEASE CERTAIN REAL ESTATE FROM THE PROVISIONS THEREOF, RELATING TO TAXABLE INDUSTRIAL REVENUE BONDS (THE COLEMAN COMPANY, INC.) OF THE CITY OF WICHITA, KANSAS.**

**WHEREAS**, the Issuer has heretofore determined that it is desirable in order to promote stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its taxable industrial revenue bonds for the purpose of purchasing acquiring, constructing and equipping improvements and additions to existing facilities located in the city of Wichita, Kansas and the city of Maize, Kansas (collectively, the "Project"); and

**WHEREAS**, the Issuer previously issued its Taxable Industrial Revenue Bonds, Series VIII, 1993 (The Coleman Company, Inc.) (the "1993 Bonds"), in the original principal amount of \$10,036,800, its Taxable Industrial Revenue Bonds, Series XIII, 1998 (The Coleman Company, Inc.) (the "1998 Bonds"), in the original principal amount of \$6,565,160, its Taxable Industrial Revenue Bonds, Series XVI, 1999 (The Coleman Company, Inc.) (the "1999 Bonds"), in the original principal amount of \$5,211,281.50, its Taxable Industrial Revenue Bonds, Series VII, 2000 (The Coleman Company, Inc.) (the "2000 Bonds"), in the original principal amount of \$14,871,447.43; its Taxable Industrial Revenue Bonds, Series XIV, Series 2001 (The Coleman Company, Inc.) (the "2001 Bonds"), in the original principal amount of \$12,165,214.24, its Taxable Industrial Revenue Bonds, Series IX, 2002 (The Coleman Company, Inc.) (the "2002 Bonds"), in the original principal amount of \$13,519,041.38, its Taxable Industrial Revenue Bonds, Series IX, 2004 (The Coleman Company, Inc.) (the "2004 Bonds"), in the original principal amount of \$17,970,208, its Taxable Industrial Revenue Bonds, Series VIII, 2005 (The Coleman Company, Inc.) (the "2005 Bonds"), in the original principal amount of \$10,085,623.22; its Taxable Industrial Revenue Bonds, Series VII, 2006 (The Coleman Company, Inc.) (the "2006 Bonds"), in the original principal amount of \$5,498,669.78, its Taxable Industrial Revenue Bonds, Series VIII, 2007 (The Coleman Company, Inc.) (the "2007 Bonds"), in the original principal amount of \$23,862,092.81 and its Taxable Industrial Revenue Bonds, Series IX, 2008 (The Coleman Company, Inc.) (the "2008 Bonds"), in the original principal amount of \$6,347,135.72 (collectively, the "Bonds") pursuant to a Trust Indenture dated as of December 1, 1993, as amended and supplemented (the "Original Indenture"), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri, as trustee (the "Trustee"), for the purpose of purchasing, acquiring, constructing and equipping the Project, as more fully described in the Indenture; and

**WHEREAS**, in connection with the issuance of the 1993 Bonds, The Coleman Company, Inc., a Delaware corporation (the "Tenant") leased certain real property and existing improvements thereon (the "Land") on which the Project is located to the Issuer pursuant to a Site Lease dated as of December 1, 1993 (the "Site Lease"); and

**WHEREAS**, in connection with the issuance of the Bonds, the Issuer leased the Project, including the Land, to the Tenant pursuant to the terms of a Lease dated as of December 1, 1993, as amended and supplemented (the "Lease"), by and between the Issuer and the Tenant; and

**WHEREAS**, the Issuer has received a request from the Tenant that an amendment to the Indenture, the Site Lease and the Lease be approved in connection with the sale and release of a portion of the Land as more fully described on **Schedule I, Exhibit A** attached hereto (the "Released Land") and that the Issuer and the Trustee enter into a First Amendment to Trust Indenture (the "First Amendment to Indenture"), the First Amendment to Site Lease (the "First Amendment to Site Lease") and the Second

Amendment to Lease (the “Second Amendment to Lease”) in connection with the release of the Released Land from the provisions of the Indenture, the Site Lease and the Lease; and

**WHEREAS**, the First Amendment to Indenture, the First Amendment to Site Lease and the Second Amendment to Lease are herein collectively referred to as the “Release Documents”; and

**WHEREAS**, the Trustee, the Tenant and 100% of the Bondowners have or will consent to the execution of the Release Documents; and

**WHEREAS**, the Governing Body of the Issuer deems it advisable to approve the execution of the Release Documents in connection with the release of the Released Land.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Approval and Execution of the Release Documents.** The Governing Body of the Issuer hereby deems it desirable and hereby approves and authorizes the proposed amendments of the Indenture, Site Lease and Lease to release the Released Land from the provisions thereof, contingent upon receipt of all necessary approvals and consents and the compliance with all requirements of the Indenture, the Site Lease, the Lease and other Bond documents, and the Mayor is hereby authorized and directed to execute and deliver the Release Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance (copies of said documents shall be filed in the records of the Issuer) for and on behalf of and as the act and deed of the Issuer. The City Clerk or any Deputy City Clerk is hereby authorized and directed to attest to and affix the Issuer's official seal to the Release Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 2. Further Authority.** The officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 3. Effective Date.** This Ordinance shall take effect and be in full force and effect from and after its passage by the Governing Body of the Issuer, signature by the Mayor and publication once in the official newspaper of the Issuer.

*[Remainder of page intentionally left blank.]*

**PASSED** by the Governing Body of the City of Wichita, Kansas, and approved by the Mayor on January 13, 2009.

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** South Broadway Streetscapes (Districts I & III)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

---

**Recommendations:** Approve the Project.

**Background:** Funds have been allocated for streetscape improvements along Broadway from Pawnee to the Arkansas River and from Kellogg to Gilbert. The north segment of the project is in District I. The south segment of the project is in District III. Both the District I and District III Advisory Boards unanimously approved the project concept at their respective meetings on November 3 and November 5, 2008. The project was supported by the Design Council at their meeting on November 19, 2008. A lack of quorum did not allow the Design Council to make a formal recommendation, but no changes were requested.

**Analysis:** For the north section, between Kellogg and Gilbert, upgraded street and ornamental pedestrian lighting will be installed along both sides of Broadway. Trees will be planted along Broadway and the existing median south of Kellogg will be improved. For the south section, between Pawnee and the Arkansas River, new street lights will be installed on the west side of Broadway. Two raised landscaped medians will be constructed in Broadway between the entrances to the Wal-Mart shopping center. Trees will be planted along both sides of Broadway and in the medians.

**Financial Considerations:** The funding source for the improvements is Community Development Block Grant (CDBG) funds and leftover funds from an arterial street improvement project. The CDBG funds that have been set aside for this project are \$100,000 for the south section (District III) and \$80,000 for the north section (District I). An additional \$107,000 for the north segment will come from leftover funds in the Zoo Boulevard, Westdale to I-235 project. The total project budget is \$287,000.

**Goal Impact:** The project addresses the Quality of Life goal by improving the appearance of the South Broadway corridor.

**Legal Considerations:** The authorizing Resolution as been approved as to form by the Department of Law.

**Recommendation/Actions:** It is recommended that the City Council approve the Broadway streetscape project, adopt the Resolution and authorize the necessary signatures.

**Attachments:** Map, CIP Sheet, Resolution.

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-002

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO CONSTRUCT BROADWAY STREETSCAPE IMPROVEMENTS, BETWEEN KELLOGG AND GILBERT (472-84775).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The installation of ornamental lighting, landscaping and concrete medians.

SECTION 2: The total cost is estimated not to exceed \$107,000, exclusive of the costs of interest on borrowed money, with total paid by the issuance of bonds by the City of Wichita at large.

SECTION 3: That the advisability of said improvements is established as authorized by K.S.A. 13-1024c and City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

ATTEST:

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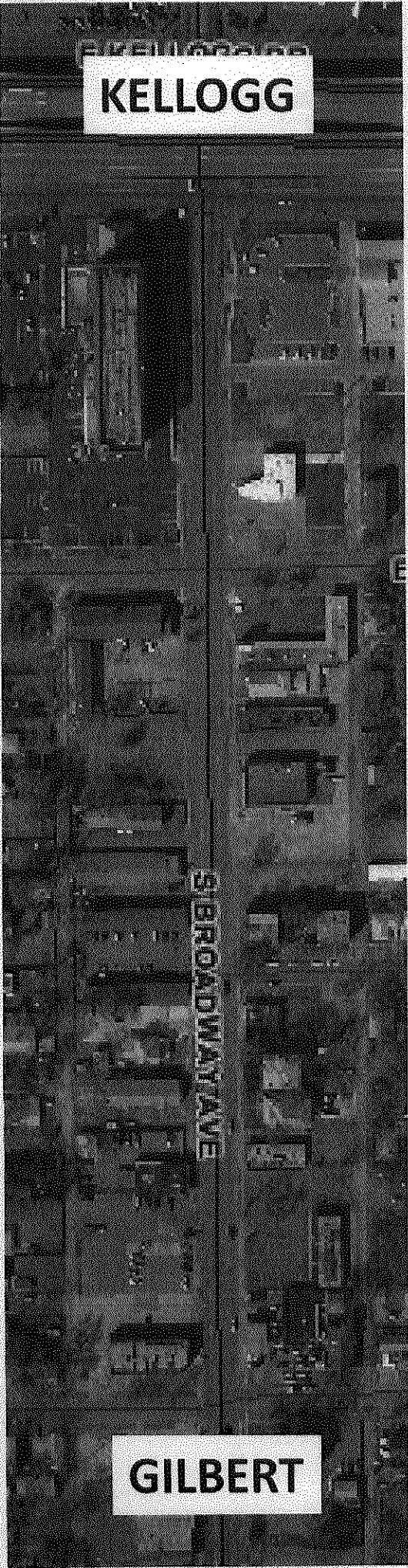
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY REBENSTORF, DIRECTOR OF LAW





# CAPITAL IMPROVEMENT

## PROJECT AUTHORIZATION

### CITY OF WICHITA

USE:

To Initiate Project

To Revise Project

X
---

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 11/24/2008	4. Project Description & Location South Broadway Streetscape, Kellogg - Gilbert		
5. CIP Project Number MS-	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date		
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised		
As Required	As Required		12. Project Cost Estimate		
ITEM		GO	SA	KDOT	TOTAL
Right of Way					
Paving, grading & const.					
Bridge & Culverts					
Drainage					
Sanitary Sewer					
Sidewalk					
Water					
Streetscape		\$107,000			\$107,000
Totals		\$107,000			\$107,000
Total CIP Amount Budgeted					
Total Prelim. Estimate					

12A.

Platting Required	Yes	No
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84775

13. Recommendation: Approve the Project and Resolution

Division Head <i>Dany Jan</i> for Jih Annoua 12/03/09	Department Head <i>John C.</i>	Budget Officer <i>W. J. Jan</i>	City Manager
		Date	Date

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** West Kellogg, 111th Street West to 143rd Street West (Districts IV & V)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

---

**Recommendations:** Approve the Design Concept for Kellogg from 111th to 143rd Street West (119th & 135th Interchanges) and authorize opportunity purchases for right-of-way.

**Background:** Preliminary engineering is underway for a design to convert Kellogg from an expressway to a freeway from 111th Street West to 143rd Street West (approximately ½ mile west of 135th Street West). This project is a continuation of the project that was approved by the City Council on November 3, 1998. At that time the City Council approved a concept design from Mid Continent Drive to 151<sup>st</sup> Street West. On April 8, 2008, a contract with P.E.C. Consultant Engineers was approved to update the previous concept study and produce construction plans for the freeway. District IV and V Advisory Boards held neighborhood hearings on December 3 and December 1 respectively. Both Boards voted unanimously to recommend approval of the project.

**Analysis:** The proposed improvement is a six-lane freeway with grade separation at 119th and 135th Streets West. Frontage roads will provide access to adjacent properties.

**Financial Considerations:** The estimated cost of the project will be developed after preliminary engineering work is completed. A budget of \$1,500,000 is needed at this time to begin opportunity right-of-way acquisition. The funding source will be Local Sales Tax.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving traffic flow across a vital transportation route.

**Legal Considerations:** The authorizing Resolution has been approved as to form by the Law Department.

**Recommendation/Actions:** It is recommended that the City Council approve the design concept, authorize acquisition of right-of-way, adopt the Resolution and authorize the signing of State/Federal agreements as required.

**Attachments:** Map, CIP Sheet and Resolution.

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-003

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO IMPROVE KELLOGG BETWEEN 143RD STREET WEST AND 111TH STREET WEST (472-84784).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The acquisition of right-of-way as necessary for a major traffic facility.

SECTION 2: The total cost is estimated not to exceed **\$1,500,000**, exclusive of the costs of interest on borrowed money, with total paid by the issuance of bonds by the City of Wichita at large.

SECTION 3: That the advisability of said improvements is established as authorized by K.S.A. 13-1024c and City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

ATTEST:

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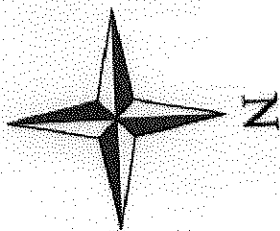
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW



CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

- USE:
- 1. Prepare in triplicate
  - 2. Send original & 2 copies to budget.
  - 3. City Manager to sign all copies.
  - 4. File original w/ initiating resolution in City Clerk.
  - 5. Return 2nd copy to initiating department.
  - 6. Send 3rd copy to Controller.

To Initiate Project ☒

To Revise Project ☐

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/17/2008	4. Project Description & Location Kellogg Freeway, 111th St West - 143rd St West	
5. CIP Project Number F-	6. Accounting Number	7. CIP Project Date (Year) 2009	8. Approved by WCC Date	
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised	
As Required		12. Project Cost Estimate		
ITEM	GO	SA	LST	TOTAL
Right of Way			\$1,500,000	\$1,500,000
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Streetscape				
Totals			\$1,500,000	\$1,500,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

13. Recommendation: Approve the Project and Resolution

472-84784

Platting Required ☐

Lot Split ☐




Petition ☐

Ordered by WCC ☒

Yes ☐

No ☐

Remarks:

Division Head 	Department Head 	Budget Officer 	City Manager 
Date	Date	Date	Date

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Petition to pave parts of New Jersey and Bunker Hill Drive (east of Oliver, north of 31<sup>st</sup> St. South) (District III)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

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**Recommendation:** Approve the Petition.

**Background:** The signatures on the Petition represent 18 of 27 (67%) resident owners and 50% of the improvement district area. District III Advisory Board sponsored a December 3, 2008, neighborhood hearing on the project. The Board deferred a recommendation on the petition.

**Analysis:** The project will provide paved access to a residential and commercial area.

**Financial Considerations:** The estimated project cost is \$550,000 with \$532,168 assessed to the improvement district and \$17,832 paid by the City. The City share is for the cost of intersection construction with General Obligation bonds as the funding source. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.42 per square foot of ownership.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing street paving in an existing residential and commercial area.

**Legal Considerations:** State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

**Recommendation/Action:** It is recommended that the City Council approve the Petition, adopt the Resolution : authorize the necessary signatures.

**Attachments:** Map, Assessment Roll, CIP Sheet, Petition and Resolution.

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-004

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON NEW JERSEY FROM THE EAST LINE OF VALLEY FORGE TO THE WESTERLY LINE OF GEORGE WASHINGTON BOULEVARD AND ON BUNKER HILL DRIVE FROM THE NORTH LINE OF BRANDYWINE TO THE WESTERLY LINE OF GEORGE WASHINGTON BOULEVARD (NORTH OF 31ST ST. SOUTH, EAST OF OLIVER) 472-84783 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON NEW JERSEY FROM THE EAST LINE OF VALLEY FORGE TO THE WESTERLY LINE OF GEORGE WASHINGTON BOULEVARD AND ON BUNKER HILL DRIVE FROM THE NORTH LINE OF BRANDYWINE TO THE WESTERLY LINE OF GEORGE WASHINGTON BOULEVARD (NORTH OF 31ST ST. SOUTH, EAST OF OLIVER) 472-84783 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize constructing pavement on New Jersey from the east line of Valley Forge to the westerly line of George Washington Boulevard and on Bunker Hill Drive from the north line of Brandywine to the westerly line of George Washington Boulevard (north of 31st St. South, east of Oliver) 472-84783.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to Five Hundred Fifty Thousand Dollars (\$550,000) exclusive of the cost of interest on borrowed money, with 96.4 percent payable by the improvement district and 3.6 percent payable by the City at Large. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after October 1, 2008 exclusive of the cost of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

WASHINGTON HEIGHTS ADDITION

Lots 5 through 7 Inclusive, Block A  
Lots 1 through 29 Inclusive, Block B  
Lots 1 through 4 Inclusive, Block C  
Lots 1 through 11 Inclusive, Block D

WASHINGTON HEIGHTS-REPLAT BLKS I AND J

Lot 4, Block 1

WASHINGTON HEIGHTS 2ND ADDITION

Lots 1 through 3 Inclusive, Block 1

WASHINGTON HEIGHTS 5TH ADDITION

Lot 2 except south 72 feet, Block 2

Lots 3 and 4, Block 2

North 90 feet of Lot 5, Block 2

Lot 1, Block 3

DISABLED AMERICAN VETERANS ADDITION

Lot 1, Block A

CONCORD BUSINESS PARK ADDITION

That part of lot 1 that lies east of a line starting 177.82 feet south and 360.76 feet east of the northwest corner of Lot 2, Block 1 of a Replat of Blocks I and J of Washington Heights; thence N 20° 10' 18"W, 189.44 feet, thence N 11° 33' 31"W, 369.92 feet more or less, EXCEPT for part dedicated as drainage easement

That part of lot 2 that lies east of a line starting 177.82 feet south and 360.76 feet east of the northwest corner of Lot 2, Block 1 of a Replat of Blocks I and J of Washington Heights; thence S 20° 10' 18"E, 444.80 feet more or less to the south line of Lot 2

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a square foot basis.

Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of the said driveway shall be in addition to the assessment to said tract, lot or parcel and shall be in addition to assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners



of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12throught6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

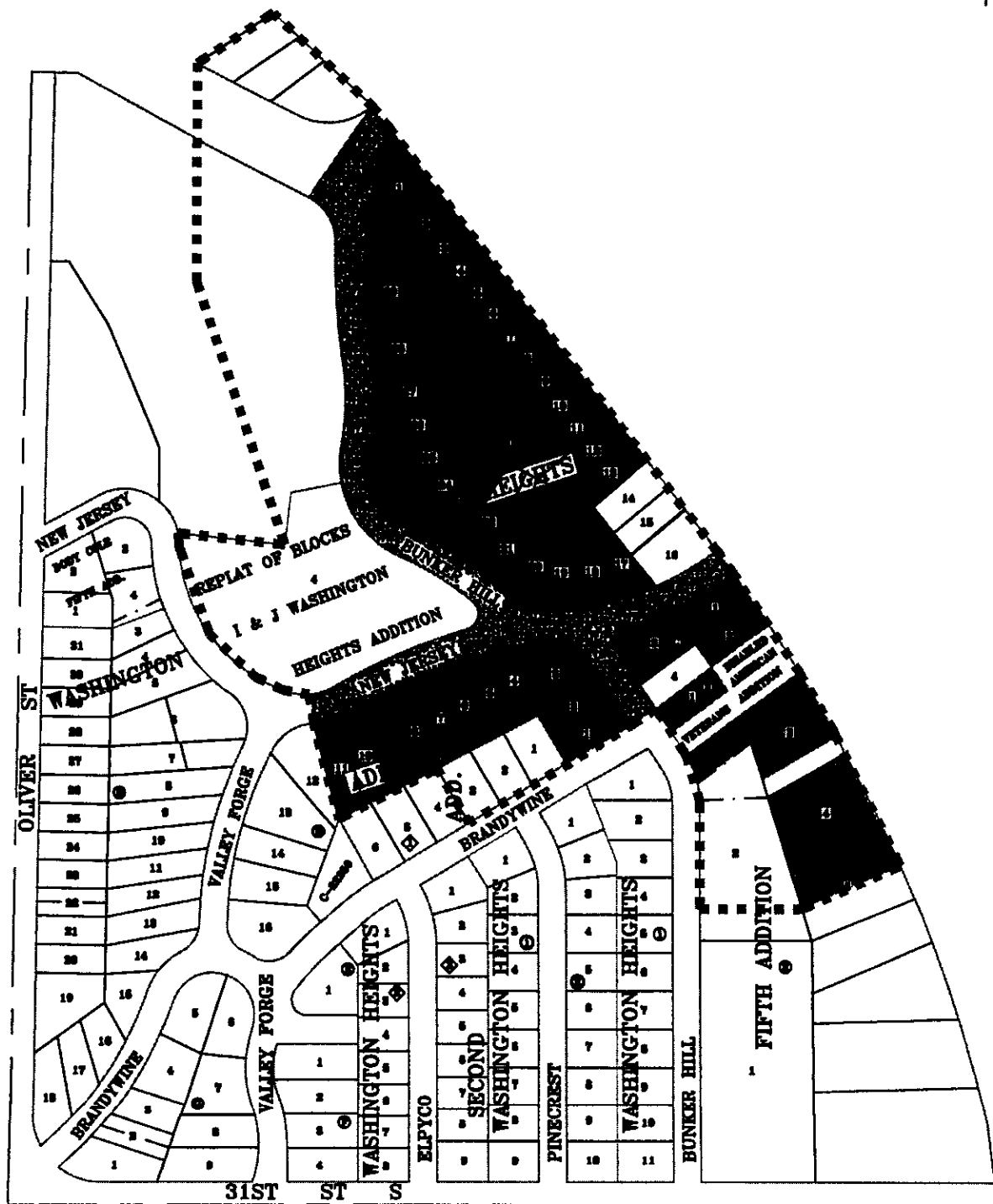
ATTEST:

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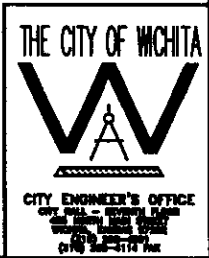
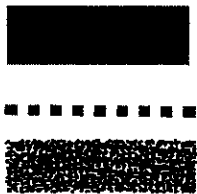
KAREN SUBLETT, CITY CLERK

(SEAL)

# PROPOSED PAVING OF VALLEY FORGE AND BUNKER HILL



RESIDENT OWNERS SIGNED (67%)  
 AREA SIGNED (50%)  
 IMPROVEMENT DISTRICT BOUNDARY  
 PROPOSED IMPROVEMENT



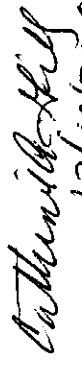


Estimated assessments for paving Bunker Hill and New Jersey.											
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment	12/16/08 Annual Payment	cost Resident area Owners rate	\$484,168 1172591 0.412805	Area Signed	Res. Own. Signed	
WASHINGTON HEIGHTS ADD											
C 34436	UNITED DISTRIBUTORS INC PO BOX 1995 WICHITA KS 67201	2825 S GEORGE WASHINGTON BLVD	LOT 5, BLOCK A	13588.548	\$5,611	\$541	1				
C 34437	UNITED DISTRIBUTORS INC PO BOX 1995 WICHITA KS 67201	2835 S GEORGE WASHINGTON BLVD	LOT 6, BLOCK A	11382.089	\$4,700	\$453	repeat				
C 34438	UNITED DISTRIBUTORS INC PO BOX 1995 WICHITA KS 67201		LOT 7, BLOCK A	14541.706	\$6,004	\$578	repeat				
C 34468	WICHITA CHAPTER 4 DISABLED AMERICAN VETERANS PO BOX 16261 WICHITA KS 67216		LOT 1, BLOCK C	10169.103	\$4,199	\$405	1		10169.1	1	
C 34469	WICHITA CHAPTER 4 DISABLED AMERICAN VETERANS PO BOX 16261 WICHITA KS 67216	3003 S GEORGE WASHINGTON BLVD	LOT 2, BLOCK C	9030.21	\$3,729	\$359	repeat		9030.21	repeat	
C 34470	FREEMAN, DEBRA J & JAMES M 809 NEVALLEY VIEW RD LAWTON OK 73507	5101 E NEW JERSEY	LOT 3 EXC BEG NE COR SELY 83.5 FT SWLY 83.2 FT NWLY 104.2 FT TO N LI LOT 3 ELY TO BEG. BLOCK C	6371.1354	\$2,631	\$253	nr		6371.135	nr	
C 344700001	BAUM, JULIA L REVOC TRUST ATTN: GREGORY BAUM PO BOX 4031 WICHITA KS 67204	5105 E NEW JERSEY	BEG NE COR LOT 3 SELY 83.5 FT SWLY 83.2 FT NWLY 104.2 FT TO N LI LOT 3 ELY TO BEG. BLOCK C	7611.9048	\$3,143	\$303	1		7611.905	1	
C 34471	NGUYEN, VI V & MAI T 2937 WEST PKWY CR WICHITA KS 67210	3010 S BUNKER HILL	LOT 4, BLOCK C	9153.3358	\$3,780	\$364	2				
C 34472	ABDUL-HAMEED, NATHANIEL A & KATHY D 1225 OAKWOOD DERBY KS 67037	3011 S BUNKER HILL	LOT 1 EXC BEG SW COR NWLY 49.74 FT NELY TO ELY LI SELY 52.05 FT TO SE COR SW TO BEG & LOT 2 BLOCK D	11897.236	\$4,912	\$473	nr		11897.24	nr	
C 344720001	ABDUL-HAMEED, NATHANIEL A & KATHY D 1225 OAKWOOD DERBY KS 67037		PT LOT 1 BEG SW COR NWLY 49.74 FT NELY TO ELY LI SELY 52.05 FT TO SELY COR SWLY ALG S LI TO BEG BLOCK D	8248.2385	\$3,406	\$328	repeat		8248.239	repeat	
C 34474	ERBERT, MONTY R 2021 E BLAKE WICHITA KS 67211	5033 E NEW JERSEY	LOT 3, BLOCK D	15781.191	\$6,516	\$628	1		15781.19	1	
C 34475	ARNEY, CHRISTINA M & JOHN	5029 E NEW JERSEY	LOT 4, BLOCK D	9109.8798	\$3,762	\$382	2		9109.88	2	
C 34476	DALLAS, DREW W III & ELIZABETH A	5025 E NEW JERSEY	LOT 5, BLOCK D	9693.7914	\$4,003	\$386	2		9693.791	2	
C 34477	KNESS, ROBERT A ETUX 618 N MAIN ROSE HILL KS 67133	5021 E NEW JERSEY	LOT 6, BLOCK D	10195.187	\$4,210	\$406	nr		10195.19	nr	
C 34478	WALSBERG, VICTOR R ETAL	5017 E NEW JERSEY	LOT 7, BLOCK D	10518.305	\$4,343	\$418	1		10518.31	1	
C 34479	HOULIHAN, TIMOTHY A PO BOX 16352 WICHITA KS 67216	5013 E NEW JERSEY	LOT 8, BLOCK D	10661.791	\$4,402	\$424	1		10661.79	1	
C 34480	LONG, DANNY K & SUE A	5009 E NEW JERSEY	LOT 9, BLOCK D	10625.048	\$4,387	\$423	1		10625.05	1	
C 34481	MWANKUSYE, NSUBISI	5005 E NEW JERSEY	LOT 10, BLOCK D	10736.539	\$4,433	\$427	1		10736.54	1	
C 34482	CRAIN, CHARLIE R JR 5365 W 81ST VALLEY CENTER KS 67147		LOT 11, BLOCK D	11288.561	\$4,661	\$449	2		11288.56	2	
C 34439	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2902 S BUNKER HILL	LOT 1, BLOCK B	11168.248	\$4,611	\$444	nr		11168.25	nr	
C 34440	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2905 S GEORGE WASHINGTON BLVD	LOT 2, BLOCK B	8614.434	\$3,557	\$343	repeat		8614.434		
C 34441	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2909 S GEORGE WASHINGTON BLVD	LOT 3, BLOCK B	8720.8893	\$3,601	\$347	repeat		8720.889		
C 34442	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2911 S GEORGE WASHINGTON BLVD	LOT 4, BLOCK B	8856.6217	\$3,657	\$352	repeat		8856.622		
C 34443	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2915 S GEORGE WASHINGTON BLVD	LOT 5, BLOCK B	8965.2228	\$3,702	\$357	repeat		8965.223		
C 34444	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2919 S GEORGE WASHINGTON BLVD	LOT 6, BLOCK B	9205.8607	\$3,801	\$366	repeat		9205.861		
C 34445	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2923 S GEORGE WASHINGTON BLVD	LOT 7, BLOCK B	10108.898	\$4,174	\$402	repeat		10108.9		
C 34446	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2927 S GEORGE WASHINGTON BLVD	LOT 8, BLOCK B	11374.916	\$4,697	\$453	repeat		11374.92		
C 34447	CHALLA, RAGHU ETAL 2905 GEO WASHINGTON BLVD WICHITA KS 67210	2931 S GEORGE WASHINGTON BLVD	LOT 9, BLOCK B	12638.689	\$5,219	\$503	repeat		12638.69		

Estimated assessments for paving Bunker Hill and New Jersey.											
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	12/18/08 Annual Payment**	Resident Owners	cost area rate	\$484,168 1172581 0.412905	Area Signed	Res. Own. Signed
C 34448	CHALLA, RAGHU ETAL 2905 GEO WASHINGTON BLVD WICHITA KS 67210	2935 S GEORGE WASHINGTON BLVD	LOT 10, BLOCK B	13831.376	\$5,752	\$554	repeat			13831.38	
C 34449	CHALLA, RAGHU ETAL 2905 GEO WASHINGTON BLVD WICHITA KS 67210	2937 S GEORGE WASHINGTON BLVD	LOT 11, BLOCK B	13625.348	\$5,626	\$542	repeat			13625.35	
C 34450	CHALLA, RAGHU ETAL 2905 GEO WASHINGTON BLVD WICHITA KS 67210	2943 S GEORGE WASHINGTON BLVD	LOT 12, BLOCK B	11606.997	\$4,793	\$462	repeat			11607	
C 34451	CHALLA, RAGHU ETAL 2905 GEO WASHINGTON BLVD WICHITA KS 67210	2945 S GEORGE WASHINGTON BLVD	LOT 13, BLOCK B	10266.094	\$4,239	\$408	repeat			10266.09	
C 34452	HAMILTON, RODERICK G & CHRIS W 2716 N PERSHING WICHITA KS 67220	2901 S GEORGE WASHINGTON BLVD	ALL LOT 14 & LOT 15 EXC BEG SW COR NELY 150 FT TO SE COR N 2.92 FT SWLY PAR. TO S LI 65 FT SWLY 85 FT TO BEG	17680.238	\$7,300	\$703	2				
C 34454	MORENO, MARIA E	2959 S GEORGE WASHINGTON BLVD	LOT 16 & THAT PART LOT 15 BEG SW COR NELY 150 FT TO SE COR TH NWLY 2.92 FT SWLY 65 FT SW 85 FT TO BEG BLOCK B	16236.686	\$6,704	\$646	1				
C 34455	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	5118 E NEW JERSEY	LOT 17, BLOCK B	10478.254	\$4,327	\$417	2			10478.25	2
C 34456	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	5112 E NEW JERSEY	LOT 18, BLOCK B	11565.558	\$4,776	\$460	repeat			11565.56	repeat
C 34457	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	5106 E NEW JERSEY	LOT 19, BLOCK B	12988.067	\$5,363	\$517	repeat			12988.07	repeat
C 34458	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	5100 E NEW JERSEY	LOT 20, BLOCK B	13013.86	\$5,374	\$518	repeat			13013.86	repeat
C 34459	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	2952 S BUNKER HILL	LOT 21, BLOCK B	10512.446	\$4,341	\$418	repeat			10512.45	repeat
C 34460	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	2946 S BUNKER HILL	LOT 22, BLOCK B	11634.272	\$4,804	\$463	repeat			11634.27	repeat
C 34461	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	2940 S BUNKER HILL	LOT 23, BLOCK B	11596.911	\$4,788	\$461	repeat			11596.91	repeat
C 34462	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	2934 S BUNKER HILL	LOT 24, BLOCK B	14354.173	\$5,927	\$571	repeat			14354.17	repeat
C 34463	PRATT, MORGAN C & TERESA L 11312 W 17TH WICHITA KS 67212	2928 S BUNKER HILL	LOT 25, BLOCK B	18764.603	\$7,748	\$746	repeat			18764.6	repeat
C 34464	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2926 S BUNKER HILL	LOT 26, BLOCK B	17454.563	\$7,207	\$694	repeat			17454.56	repeat
C 34465	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2916 S BUNKER HILL	LOT 27, BLOCK B	14462.141	\$5,972	\$575	repeat			14462.14	repeat
C 34466	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2910 S BUNKER HILL	LOT 28, BLOCK B	14898.528	\$6,152	\$593	repeat			14898.53	repeat
C 34467	CHALLA, RAGHU ETAL 2905 S GEO WASH BLVD WICHITA KS 67210	2904 S BUNKER HILL	LOT 29, BLOCK B	10968.478	\$4,529	\$436	repeat			10968.48	repeat
WASHINGTON HEIGHTS-REPLAT BLKS I & J											
C 35777	SMITH, TERESA M PO BOX 783173 WICHITA KS 67278	4912 E NEW JERSEY	Lot 4, Block 1	167755.5	\$69,267	\$6,673	1				
WASHINGTON HEIGHTS 2ND ADD											

Estimated assessments for paving Bunker Hill and New Jersey.											
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment**	12/16/08 Annual Payment**	cost Resident Owners area rate		\$484,188 1172591 0.412905	Area Signed	Res. Own. Signed
C 36850	WEAVER, JASON M & SHANNON ETAL 20272 RAVENWOOD LANE HUNTINGTON BEACH CA 92646	3003 S BRANDYWINE	LOT 1, BLOCK 1	9673.9041	\$3,894	\$385	nr				
C 36851	WEAVER, JASON M & SHANNON ETAL 20272 RAVENWOOD LANE HUNTINGTON BEACH CA 92646	3011 S BRANDYWINE	LOT 2, BLOCK 1	9842.4767	\$4,064	\$382	repeat				
C 36852	WEAVER, JASON M & SHANNON ETAL 20272 RAVENWOOD LANE HUNTINGTON BEACH CA 92646	3021 S BRANDYWINE	LOT 3, BLOCK 1	10597.499	\$4,376	\$422	repeat				
DISABLED AMERICAN VETERANS ADD											
C 38212	WICHITA CHAPTER NO 4 DAV INC PO BOX 18261 WICHITA KS 67216	3011 S GEORGE WASHINGTON BLVD	LOT 1, BLOCK A	27355.011	\$11,295	\$1,088	repeat				
CONCORD BUSINESS PARK											
C 48144	BOEING WICHITA CREDIT UNION PO BOX 789757 WICHITA KS 67278		The Part of lot 1, Concord Addition that lies east of a line starting 1821.68 feet north and 412.79 feet east of the SW corner of Section 1, Twp 28S, R1E; thence N 20 10' 18"W, 189.44 feet, thence N 11 33' 31" W, 369.92 feet more or less EXCEPT for part dedicated as drainage easement	128091	\$52,064	\$5,016	1				
C 48145	BOEING WICHITA CREDIT UNION PO BOX 789757 WICHITA KS 67278		LOT 2 EXC BEG NW COR SE 188.1 FT S 120.86 FT TO NELY LI NEW JERSEY ST TH SELY ALG CUR 36.3 FT NE 76.93 FT NELY ALG CUR 240.48 FT N 129.31 FT TO N LI SW 275.27 FT TO BEG, that lies east of a line starting 1821.68 feet north and 412.79 feet east of the SW corner of Section 1, Twp 28S, R1E; thence S 20 10' 18"E, 444.80 feet more or less to the south line of Lot 2	69300	\$28,614	\$2,757	repeat				
C 481450001	BOEING WICHITA CREDIT UNION PO BOX 789757 WICHITA KS 67279		THAT PART LOT 2 BEG NW COR SE 188.1 FT S 120.86 FT TO NELY LI NEW JERSEY ST TH SELY ALG CUR 36.3 FT NE 76.93 FT TH NELY ALG CUR 240.48 FT N 129.31 FT TO N LI SW 275.27 FT TO BEG, that lies east of a line starting 1821.68 feet north and 412.79 feet east of the SW corner of Section 1, Twp 28S, R1E; thence S 20 10' 18"E, 444.80 feet more or less to the south line of Lot 3	9718	\$4,013	\$387	repeat				
WASHINGTON HEIGHTS 5TH ADD											
C 38415	FLATCOAT STORAGE II LLC 3031 S GEO WASHINGTON BLVD WICHITA KS 67210	3031 S GEORGE WASHINGTON BLVD	LOT 2 EXC BEG NW COR LOT 2 SLY 96.80 FT NELY 146.83 FT TO SW COR LOT 3 BLK 2 NLY TO NE COR LOT 2 SWLY TO BEG & Exc S 72 FL BLOCK 2	68977.906	\$24,352	\$2,346	1	should be 42,536.21 sf			
C 384150001	WICHITA CHAPTER 4 DISABLED AMERICAN VETERANS INC PO BOX 18261 WICHITA KS 67216		NWLY 60 FT PAR TO NWLY LI LOT 2, BLOCK 2	8178.0939	\$3,377	\$325	repeat			8178.094	repeat
C 384150002	FLATCOAT STORAGE II LLC ATTN: PRAIRIE STATE BANK 3031 S GEO WASHINGTON BLVD WICHITA KS 67210		PT LOT 2 BEG SW COR LOT 3 BLK 2 NLY 118.49 FT TO PT 60 FT S NE COR LOT 2 SWLY 142.91 FT TO W LI LOT 2 SLY 36.80 FT NELY 146.83 FT TO BEG. & SLY 40 FT LOT 3 BLOCK 2 WASHINGTON HEIGHTS FIFTH ADD.	19450.157	\$8,031	\$774	repeat				

<b>Estimated assessments for paving Bunker Hill and New Jersey.</b>											
<b>Key No.</b>	<b>Property Owner</b>	<b>Property Address</b>	<b>Legal Description</b>	<b>Area (sq. ft.)</b>	<b>Estimated Assessment*</b>	<b>Annual Payment**</b>	<b>Resident area Owners rate</b>	<b>cost</b>	<b>\$484,168 1172591 0.412905</b>	<b>Area Signed</b>	<b>Res. Own. Signed</b>
C 38416	DISABLED AMER VET THRIFT STORES INC ATTN: FRANKLIN C BERGQUIST 5455 E CENTRAL WICHITA KS 67208	3015 S GEORGE WASHINGTON BLVD	LOT 3 EXC S 40 FT, BLOCK 2	28036.326	\$10,751	\$1,036	1			28036.33	1
C 38417	SOUTHFIELD APARTMENTS LLC 3161 GEO WASHINGTON BLVD #302 WICHITA KS 67210	3051 S GEORGE WASHINGTON BLVD	LOT 4, BLOCK 2	38100.712	\$15,732	\$1,516	1			38100.71	1
C 38418	SOUTHFIELD APARTMENTS LLC 3161 GEO WASHINGTON BLVD #302 WICHITA KS 67210	3051 S GEORGE WASHINGTON BLVD	The North 90 Feet of LOT 5, BLOCK 2	35951.211	\$14,844	\$1,430	repeat	Should be 20343.65 sf		35951.21	repeat
C 38419	WICHITA CHAPTER NO 5 DISABLED AMERICAN VETERANS PO BOX 16261 WICHITA KS 67216		LOT 1, BLOCK 3	9267.0864	\$3,826	\$369	1			9267.086	1
			<b>Total:</b>	<b>1,172,591</b>	<b>\$484,168</b>		<b>27</b>			<b>581247</b>	<b>18</b>
<b>Abbreviations:</b>											
etal. = and others											
etux. = and wife											
etvir. = and husband											
nr = non resident											
Area Signed											
Resident Owners Signed											
48.57%											
66.67%											
* Estimated assessment for street construction based on \$0.42 per square foot excluding drive approach (if applicable), inflation, and/or temporary financing.											
** Estimated Annual escrow payment based on 5% bond sale rate, and spread over 15 years											
<b>BREAKDOWN OF PROJECT COSTS</b>											
Amount assessed to the improvement district											
\$484,168											
Add: City Share for Intersections (3.6%)											
\$17,832											
Add: Estimated driveway costs***											
\$48,000											
Total Estimated project cost											
\$550,000											
*** Driveway approach costs are assessed to individual properties based on the actual size of drive approach requested. Driveway approach costs are in addition to the estimated assessment shown for the street construction.											

CAPITAL IMPROVEMENT											
PROJECT AUTHORIZATION											
CITY OF WICHITA											
USE: To Initiate Project <table><tr><td>X</td></tr></table> To Revise Project <table><tr><td></td></tr></table>										X	
X											
1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.											
1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/17/2008	4. Project Description & Location Pave New Jersey & Bunker Hill in Washington Heights Area								
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2009	8. Approved by WCC Date								
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised								
As Required	As Required										
12. Project Cost Estimate											
ITEM	GO	SA	OTHER *	TOTAL							
Right of Way											
Paving	\$17,832	\$532,168		\$550,000							
Bridge & Culverts											
Drainage											
Sanitary Sewer											
Sidewalk											
Water											
Street Lights											
Totals	\$17,832	\$532,168		\$550,000							
Total CIP Amount Budgeted											
Total Prelim. Estimate											
13. Recommendation: Approve the Petition and Adopt the resolution											
12A.											
Platting Required Lot Split Petition Ordered by WCC											
Yes											
No											
Remarks: 67% Petition 472-84783											
13. Recommendation: Approve the Petition and Adopt the resolution											
Division Head 	Department Head 	Budget Officer 	City Manager Date 12/19/2008								

**PAVING PETITION**

RECEIVED

JUN 17 '08

To the Mayor and City Council  
Wichita, Kansas

CITY CLERK OFFICE

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

**Washington Heights Addition**

Lots 5-7 Inclusive, Block A  
Lots 1-29 Inclusive, Block B  
Lots 1-4 Inclusive, Block C  
Lots 1-11 Inclusive, Block D

**Washington Heights-Replat Blks I & J**

Lot 4, Block 1

**Washington Heights 2<sup>nd</sup> Addition**

Lots 1-3 Inclusive, Block 1

**Washington Heights 5<sup>th</sup> Addition**

Lot 2 except south 72 feet, Block 2  
Lots 3 & 4, Block 2  
North 90 feet of Lot 5, Block 2  
Lot 1, Block 3

**Disabled American Veterans Addition**

Lot 1, Block A

**Concord Business Park Addition**

That part of lot 1 that lies east of a line starting 177.82 feet south and 360.76 feet east of the northwest corner of Lot 2, Block 1 of a Replat of Blocks I & J of Washington Heights; thence N 20° 10' 18"W, 189.44 feet, thence N11° 33' 31"W, 369.92 feet more or less, EXCEPT for part dedicated as drainage easement

That part of lot 2 that lies east of a line starting 177.82 feet south and 360.76 feet east of the northwest corner of Lot 2, Block 1 of a Replat of Blocks I & J of Washington Heights; thence S 20° 10' 18"E, 444.80 feet more or less to the south line of Lot 2

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

- (a) That there be constructed pavement on New Jersey from the east line of Valley Forge to the westerly line of George Washington Boulevard and on Bunker Hill Drive from the north line of Brandywine to the westerly line of George Washington Boulevard. That said pavement between aforesaid limits be constructed with plans and specifications to be furnished by the



City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.

- (b) That the estimated and probable cost of the foregoing improvement being **Five Hundred Fifty Thousand Dollars (\$550,000)** exclusive of the cost of interest on borrowed money, with **96.4** percent payable by the improvement district and **3.6** percent payable by the City at Large. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after **October 1, 2008**.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.
- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a **Square Foot** basis:

Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

Beg Ne Cor Lot 3 Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	BAUM, JULIA L REVOC TRUST ATTN: GREGORY BAUM <i>Julia L. Baum Revocable Trust,</i> <i>Julia L. Baum 10-22-08</i>
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*Page 1-A*

LEGAL DESCRIPTION	SIGNATURE	DATE
<b>Washington Heights Addition</b>		
LOTS 5-7 Inclusive, BLOCK A	UNITED DISTRIBUTORS INC	
Lots 1 & 2, Block C	WICHITA CHAPTER 4 DISABLED AMERICAN VETERANS <i>Debra J Freeman</i> 10-13-2008 DAV Chapter 4	
Lot 3 Exc Beg Ne Cor Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	FREEMAN, DEBRA J & JAMES M	
Beg Ne Cor Lot 3 Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	BAUM, JULIA L REVOC TRUST ATTN: GREGORY BAUM	
Lot 4, Block C	NGUYEN, VI V & MAI T	
Lot 1 Exc Beg Sw Cor Nwly 49.74 Ft Nely To Ely Li Sely 52.05 Ft To Se Cor Sw To Beg & Lot 2 Block D	ABDUL-HAMEED, NATHANIEL A & KATHY D <i>Nathaniel Abdul-Hameed</i> 10/3/08	
Pt Lot 1 Beg Sw Cor Nwly 49.74 Ft Nely To Ely Li Sely 52.05 Ft To Sely Cor Swly Alg S Li To Beg Block D	ABDUL-HAMEED, NATHANIEL A & KATHY D <i>Nathaniel Abdul-Hameed</i> 10/3/08	
Lot 2 Block D	ERBERT, MONTY R <i>Monty R Erbert</i> 9/28/08	
Lot 4, Block D	ARNEY, CHRISTINA M & JOHN	

Page # 1

LEGAL DESCRIPTION	SIGNATURE	DATE
<b>Washington Heights Addition</b>		
LOTS 5-7 Inclusive, BLOCK A	UNITED DISTRIBUTORS INC	
Lots 1 & 2, Block C	WICHITA CHAPTER 4 DISABLED AMERICAN VETERANS <i>Franklin C. Benjamin</i>	10-13-2008
Lot 3 Exc Beg Ne Cor Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	<i>Alberta M. Freeman</i> FREEMAN, DEBRA J & JAMES M	4.
Beg Ne Cor Lot 3 Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	BAUM, JULIA L REVOC TRUST ATTN: GREGORY BAUM	Yes
Lot 4, Block C	NGUYEN, VI V & MAI T	
Lot 1 Exc Beg Sw Cor Nwly 49.74 Ft Nely To Ely Li Sely 52.05 Ft To Se Cor Sw To Beg & Lot 2 Block D	ABDUL-HAMEED, NATHANIEL A & KATHY D	Yes
Pt Lot 1 Beg Sw Cor Nwly 49.74 Ft Nely To Ely Li Sely 52.05 Ft To Sely Cor Swly Alg S Li To Beg Block D	ABDUL-HAMEED, NATHANIEL A & KATHY D	Yes
Lot 3, Block D	ERBERT, MONTY R	Yes
Lot 4, Block D	ARNEY, CHRISTINA M & JOHN <i>Christina M. Arney</i> <i>John</i>	9-30-08 9-30-08 Yes

#2

LEGAL DESCRIPTION	SIGNATURE	DATE
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Washington Heights Addition

Debra J. Freeman 10-16-08  
 James M. Freeman 10/22/08

Lot 3 Exc Beg Ne Cor Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	FREEMAN, DEBRA J & JAMES M Debra J. Freeman James M. Freeman
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Lot 5, Block D	DALLAS, DREW W III & ELIZABETH A <i>Elizabeth A. Dallas 9/23/08</i> <i>Drew W. Dallas, Jr.</i>
Lot 6, Block D	KNESS, ROBERT A ETUX <i>Robert A. Kness 10/21/08</i>
Lot 7, Block D	WALSBERG, VICTOR R ETAL <i>Victor R. Walsberg 9-19-08</i>
Lot 8, Block D	HOULIHAN, TIMOTHY A <i>Timothy A. Houlihan 9/21/08</i>
Lot 9, Block D	LONG, DANNY K & SUE A <i>Sue A. Long 9-21-08</i> <i>P.O. A. Dr. Shirley Lawson</i>
✓ Lot 10, Block D	MWANKUSYE, NSUBISI <i>Dennis M. Boote 9/21/08</i> <i>Donald J. Boote 9/21/08</i>
✓ Lot 11, Block D	CRAIN, CHARLIE R JR <i>Randall S. Stuebel 9-21-08</i> <i>Holly Grein 9-21-08</i>
Lots 1-13 Inclusive, Block B	<del>CHALLA, RAGHU ETAL</del>
All Lot 14 & Lot 15 Exc Beg Sw Cor Nely 150 Ft To Se Cor N 2.92 Ft Swly Par. To S Li 65 Ft Swly 85 Ft To Beg	HAMILTON, RODERICK G & CHRIS W
Lot 16 & That Part Lot 15 Beg Sw Cor Nely 150 Ft To Se Cor Th Nwly 2.92 Ft Swly 65 Ft Sw 85 Ft To Beg Block B	MORENO, MARIA E
Lots 17-25 Inclusive, Block B	PRATT, MORGAN C & TERESA L

#3

Lot 5, Block D	DALLAS, DREW W III & ELIZABETH A <i>Elizabeth A. Dallas 9/23/08</i> <i>Drew W. Dallas</i>
Lot 6, Block D	KNESS, ROBERT A ETUX
Lot 7, Block D	WALSBERG, VICTOR R ETAL <i>Victor R Walsberg</i> <i>9-19-08</i>
Lot 8, Block D	HOULIHAN, TIMOTHY A <i>Timothy A Houlihan</i> <i>9/21/08</i>
Lot 9, Block D	LONG, DANNY K & SUE A <i>Sue A. Long 9-21-08</i>
Lot 10, Block D	MWANKUSYE, NSUBISI <i>Drew M. Boone 9/21/08</i> <i>Freddie Boone 9/21/08</i>
Lot 11, Block D	CRAIN, CHARLIE R JR <i>Randall S. Stuebel 9-21-08</i> <i>Holly A. Crain 9-21-08</i>
Lots 1-13 Inclusive, Block B	<del>CHALLA, RACHU ETAL</del>
All Lot 14 & Lot 15 Exc Beg Sw Cor Nely 150 Ft To Se Cor N 2.92 Ft Swly Par. To S Li 65 Ft Swly 85 Ft To Beg	HAMILTON, RODERICK G & CHRIS W
Lot 16 & That Part Lot 15 Beg Sw Cor Nely 150 Ft To Se Cor Th Nwly 2.92 Ft Swly 65 Ft Sw 85 Ft To Beg Block B	MORENO, MARIA E
Lots 17-25 Inclusive, Block B	PRATT, MORGAN C & TERESA L <i>Morgan Pratt 10-8-08</i> <i>Teresa Pratt 10-8-08</i>

#3

Lot 2 exc beg nw cor se 188.1 ft s 120.86 ft to nely li new jersey st th sely alg cur 36.3 ft ne 76.93 ft nely alg cur 240.48 ft n 129.31 ft to n li sw 275.27 ft to beg, that lies east of a line starting 1821.68 feet north and 412.79 feet east of the SW corner of Section 1, Twp 28S, R1E; thence S 20 10' 18"E, 444.80 feet more or less to the south line of Lot 2	BOEING WICHITA CREDIT UNION
That part lot 2 beg nw cor se 188.1ft s 120.86 ft to nely li new jersey st th sely alg cur 36.3 ft ne 76.93 ft th nely alg cur 240.48 ft n 129.31 ft to n li sw 275.27 ft to BEG, that lies east of a line starting 1821.68 feet north and 412.79 feet east of the SW corner of Section 1, Twp 28S, R1E; thence S 20 10' 18"E, 444.80 feet more or less to the south line of Lot 2	BOEING WICHITA CREDIT UNION

**Washington Heights 5th Addition**

Lot 2 Exc Beg Nw Cor Lot 2 Sly 96.80 Ft Nely 146.83 Ft To Sw Cor Lot 3 Blk 2 Nly To Ne Cor Lot 2 Swly To Beg & Exc S 72 Ft. Block 2	FLATCOAT STORAGE II LLC
Nwly 60 Ft Par To Nwly Li Lot 2, Block 2	WICHITA CHAPTER 4 DISABLED AMERICAN VETERANS INC <i>Franklin C. Bezzant</i> 10-13-2008 <i>Adjutant D.A. Chapter 4</i>
Pt Lot 2 Beg Sw Cor Lot 3 Blk 2 Nly 118.49 Ft To Pt 60 Ft S Ne Cor Lot 2 Swly 142.91 Ft To W Li Lot 2 Sly 36.80 Ft Nely 146.83 Ft To Beg.	FLATCOAT STORAGE II LLC ATTN: PRAIRIE STATE BANK

# 5



Lot 3, Block 2	DISABLED AMER VET THRIFT STORES INC ATTN: FRANKLIN C BERGQUIST <i>Franklin C Bergquist 10-13-2008</i>
Lot 4 & N 90 Feet Lot 5, Block 2	SOUTHFIELD APARTMENTS LLC <i>Franklin C Bergquist 10-13-2008</i>
Lot 1, Block 3	WICHITA CHAPTER NO 5 DISABLED AMERICAN VETERANS <i>Franklin C Bergquist 10-13-2008</i>

# 6

LEGAL DESCRIPTION	SIGNATURE	DATE
<b>Washington Heights Addition</b>		
LOTS 5-7 Inclusive, BLOCK A	UNITED DISTRIBUTORS INC	
Lots 1 & 2, Block C	WICHITA CHAPTER 4 DISABLED AMERICAN VETERANS <i>Debra J Freeman</i> 10-13-2008	
Lot 3 Exc Beg Ne Cor Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	FREEMAN, DEBRA J & JAMES M	
Beg Ne Cor Lot 3 Sely 83.5 Ft Swly 83.2 Ft Nwly 104.2 Ft To N Li Lot 3 Ely To Beg. Block C	BAUM, JULIA L REVOC TRUST ATTN: GREGORY BAUM	
Lot 4, Block C	NGUYEN, VI V & MAI T	
Lot 1 Exc Beg Sw Cor Nwly 49.74 Ft Nely To Ely Li Sely 52.05 Ft To Se Cor Sw To Beg & Lot 2 Block D	ABDUL-HAMEED, NATHANIEL A & KATHY D <i>Nathaniel Abdul-Hameed</i> 10/3/08 <i>Kathy D Abdul-Hameed</i>	
Pt Lot 1 Beg Sw Cor Nwly 49.74 Ft Nely To Ely Li Sely 52.05 Ft To Sely Cor Swly Alg S Li To Beg Block D	ABDUL-HAMEED, NATHANIEL A & KATHY D <i>Nathaniel Abdul-Hameed</i> 10/3/08 <i>Kathy D Abdul-Hameed</i>	
Lot 3, Block D	ERBERT, MONTY R <i>Monty R Erbert</i> 9/28/08	
Lot 4, Block D	ARNEY, CHRISTINA M & JOHN	

RECEIVED

NOV 10 2008

Page # 1

Lot 3, Block 2	DISABLED AMER VET THRIFT STORES INC ATTN: FRANKLIN C BERGQUIST <i>Franklin C. Bergquist 5-10-13-2008</i>
Lot 4 & N 90 Feet Lot 5, Block 2	SOUTHFIELD APARTMENTS LLC <i>Kent S. [Signature] 11-7-08</i>
Lot 1, Block 3	WICHITA CHAPTER NO 5 DISABLED AMERICAN VETERANS <i>Franklin C. Bergquist 5-10-13-2008</i>

RECEIVED

NOV 10 2008

OFF - ENGINEERING

# 6

Lot 5, Block D	DALLAS, DREW W III & ELIZABETH A <i>Elizabeth A. Dallas 9/23/08</i> <i>Drew W. Dallas III</i>
Lot 6, Block D	KNESS, ROBERT A ETUX
Lot 7, Block D	WALSBERG, VICTOR R ETAL <i>Victor R Walsberg</i> <i>9-19-08</i>
Lot 8, Block D	HOULIHAN, TIMOTHY A <i>Timothy A Houlahan</i> <i>9/21/08</i>
Lot 9, Block D	LONG, DANNY K & SUE A <i>Sue A. Long 9-21-08</i>
Lot 10, Block D	MWANKUSYE, NSUBISI <i>Dennis M. Boone 9/21/08</i> <i>Timothy Boone 9/21/08</i>
Lot 11, Block D	CRAIN, CHARLIE R JR <i>Raymond S. Crain 9-21-08</i> <i>Holly Crain 9-21-08</i>
Lots 1-13 Inclusive, Block B	CHALLA, RAGHU ETAL <i>Jeff Challa 9-31-08</i>
All Lot 14 & Lot 15 Exc Beg Sw Cor Nely 150 Ft To Se Cor N 2.92 Ft Swly Par. To S Li 65 Ft Swly 85 Ft To Beg	HAMILTON, RODERICK G & CHRIS W
Lot 16 & That Part Lot 15 Beg Sw Cor Nely 150 Ft To Se Cor Th Nwly 2.92 Ft Swly 65 Ft Sw 85 Ft To Beg Block B	MORENO, MARIA E
Lots 17-25 Inclusive, Block B	PRATT, MORGAN C & TERESA L

#3

Lots 28-29 Inclusive, Block B	<del>CHALLA, RAGHILETAL</del> + Jeff Lange 10-6-08 ✓
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**Washington Heights-Resplat Bks I & J**

Lot 4, Block 1	SMITH, TERESA M
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**Washington Heights 2nd Addition**

Lots 1-3 Inclusive, Block 1	WEAVER, JASON M & SHANNON ETAL
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**Concord Business Park**

The part of lot 1, Concord Addition that lies east of a line starting 1821.68 feet north and 412.79 feet east of the SW corner of Section 1, Twp 28S, R1E; thence N 20 10' 18"W, 180.44 feet, thence N 11 33' 31" W, 369.92 feet more or less EXCEPT for part dedicated as drainage easement	BOEING WICHITA CREDIT UNION
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#4

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

Shawn Mellis  
Name

455 N Main  
Address

268 - 4632  
Telephone Number

Sworn to and subscribed before me this 12<sup>th</sup> day of Nov, 2008.



Liborah Sadlock  
Deputy City Clerk

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** Elm Street Paving, between Dougherty and Nevada (District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

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**Recommendations:** Approve the Project.

**Background:** On December 16, 2008, the City Council adopted a resolution to hold a January 6, 2009, public hearing on ordering in the paving of Elm Street between Dougherty and Nevada. On December 1, 2008, District VI Advisory Board sponsored a neighborhood hearing on the project. The Board voted 8-1 to recommend approval of ordering in the project.

**Analysis:** The completed project will be a two-lane asphalt roadway with curb and gutter.

**Financial Considerations:** The estimated project cost is \$170,000 with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.61 per square foot of ownership.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing paved access in an existing neighborhood.

**Legal Considerations:** State Statutes authorize the City Council to order in the paving.

**Recommendation/Actions:** It is recommended that the City Council approve the Project, adopt the Resolution and authorize the necessary signatures.

**Attachments:** Map, Spread Sheet, CIP Sheet, and Resolution.

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-005

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON ELM FROM THE WEST LINE OF NEVADA TO THE EAST LINE OF DOUGHERTY (NORTH OF CENTRAL, WEST OF WEST STREET) 472-84777 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON ELM FROM THE WEST LINE OF NEVADA TO THE EAST LINE OF DOUGHERTY (NORTH OF CENTRAL, WEST OF WEST STREET) 472-84777 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize constructing pavement on Elm from the west line of Nevada to the east line of Dougherty (north of Central, west of West Street) 472-84777.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to One Hundred Seventy Thousand Dollars (\$170,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after October 1, 2008 exclusive of the cost of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

ANDREW WALKER ADDITION

Lots 1 and 2, Block 1

CENTRAL PLACE ADDITION

The south 263.59 feet of the north 323.6 of lot 2 except for east 30 feet for street

HICKORY CREEK ADDITION

The west 121.15 feet of Lot 1

Lots 2 through 4 Inclusive

REPLAT OF LOTS 3, 4, 5, 6, 7, 8, 9 CENTRAL PLACE ADDITION

The south 32 Feet of Lots 12 and 19

Lots 13 through 18 Inclusive



SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a square foot basis.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)



# Paving



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation, or guarantee as to the content, accuracy, timeliness, or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



WICHITA

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project

To Revise Project

X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/17/2008	4. Project Description & Location Pave Elm, Nevada - Dougherty
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2009	8. Approved by WCC Date
9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised	
As Required	As Required		
12. Project Cost Estimate			
ITEM	GO	SA	OTHER *
Right of Way			TOTAL
Paving		\$170,000	\$170,000
Bridge & Culverts			
Drainage			
Sanitary Sewer			
Sidewalk			
Water			
Street Lights			
Totals		\$170,000	\$170,000
Total CIP Amount Budgeted			
Total Prelim. Estimate			
13. Recommendation: Approve the Project and Adopt the resolution			

472-84777

Remarks:

No

Yes

Platting Required

Lot Split

Petition

Ordered by WCC

	X


Division Head

Department Head

Budget Officer

City Manager

Date

12/19/2008

Date

Estimated assessments for paving Elm from Nevada to Dougherty.								
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	Drive Assessment	11/25/08 Annual Payment**	Resident Owners
<b>ANDREW WALKER ADD.</b>								
D 39498	PRESSLEY KRISTAL H	4405 W ELM	LOT 2, BLOCK 1	6056.94	\$3,672	\$1,300	\$399	1
D 39497	RODRIGUEZ ROBERT L	4409 W ELM	LOT 1, BLOCK 1	8056.94	\$3,672	\$1,300	\$399	1
<b>CENTRAL PLACE ADD.</b>								
D 181080001	ALLENDER MELVIN J & DORIS REV TRUST	727 N NEVADA	S 52.6 FT N 323.6 FT E 187.15 FT LOT 2 EXC E 30 FT FOR ST.	8266.09	\$5,011	\$0	\$402	1
D 181080002	JONES LYLE D & BETTY L 732 N YOUNG WICHITA KS 67212	733 N NEVADA	S 52 FT N 219 FT E 187.15 FT LOT 2 EXC E 30 FT FOR ST.	8171.8	\$4,954	\$0	\$398	2
D 181080004	MATTHEWS VIOLET L ETVR 3731 ZOO BLVD WICHITA KS 67203	731 N NEVADA	S 52 FT N 271 FT E 187.15 FT LOT 2 EXC E 30 FT FOR ST	8171.8	\$4,954	\$0	\$398	2
D 18108	VAN HUSS JAMES R & JANICE I	737 N NEVADA	S 107 FT N 167 FT E 187.15 FT LOT 2 EXC E 30 FT FOR ST	16815.1	\$10,194	\$0	\$818	2
<b>HICKORY CREEK ADD</b>								
D 180100002	RODRIGUEZ ROBERT L 4409 W ELM WICHITA KS 67212		W 52.15 FT OF E 139.15 FT LOT 2	3389.75	\$2,055	\$0	\$165	1
D 18012	HORN DENNIS O 4101 S 4TH ST LEAVENWORTH KS 66048	724 N DOUGHERTY	LOT 4	19184.8	\$11,631	\$0	\$933	nr
D 180100001	PRESSLEY KRISTAL H 4405 W ELM WICHITA KS 67212		E 87 FT LOT 2	5655	\$3,428	\$0	\$275	1
D 180090001	STEINBACHER JOHN E	736 N DOUGHERTY	W 121.15 FT LOT 1	8434.46	\$5,113	\$0	\$410	1
D 18011	TODD PATRICIA	728 N DOUGHERTY	LOT 3	19184.8	\$11,631	\$0	\$933	1
D 18010	TREGELLAS PHILLIP L & BRENDA J	732 N DOUGHERTY	LOT 2 EXC E 139.15 FT THEREOF	10140	\$6,147	\$0	\$483	2
<b>REPLAT PART CENTRAL PLACE ADD.</b>								
D 18073	HARDIN BILLIE G	752 N DOUGHERTY	LOT 13	20353.5	\$12,339	\$0	\$990	1
D 18075	KIRKHUFF CARL R	740 N DOUGHERTY	LOT 15	27138	\$16,452	\$1,300	\$1,424	1
D 18072	TAYLOR JUSTIN & AMBER MEYERSICK 8701 W OAKRIDGE WICHITA KS 67205	758 N DOUGHERTY	S 32 FT of LOT 12	7236.8	\$4,387	\$0	\$352	2
D 18079	ARNEY BETTY L 754 N NEVADA WICHITA KS 67212	757 N NEVADA	S 32 FT of LOT 19	7236.8	\$4,387	\$0	\$352	1
D 18077	CARBON RICHARD & STEPHANIE CRAIG	745 N NEVADA	LOT 17	20353.5	\$12,339	\$0	\$990	2
D 18074	DIETRICH MARY & CURTIS	746 N DOUGHERTY	LOT 14	20353.5	\$12,339	\$0	\$990	2
D 18078	COLLIER CARTER F & NORA M	751 N NEVADA	LOT 18	20353.5	\$12,339	\$0	\$990	2
D 18076	TEETER MICHAEL L	741 N NEVADA	LOT 16	27138	\$16,452	\$1,300	\$1,424	1
			Total:	269,691	\$163,500	\$5,200		27
Abbreviations:								
etal. = and others								
etux. = and wife								
etvir. = and husband								
nr = non resident								
* Estimated assessment for street construction based on \$0.61 per square foot excluding drive approach (if applicable), inflation, and/or temporary financing.								
** Estimated Annual escrow payment based on 5% bond sale rate, and spread over 20 years								
<b>BREAKDOWN OF PROJECT COSTS</b>								
Amount assessed to the improvement district				\$163,500				
Add: City Share for Intersections (0%)				\$0				
Add: Estimated driveway costs***				\$6,500				
Total Estimated project cost				\$170,000				
*** Driveway approach costs are assessed to individual properties based on the actual size of drive approach requested. Each property must have a driveway constructed with the project, unless it is a corner lot with access to another street. The approach must be at least 12' wide and will extend from the street to the property line. Total estimated cost for driveway construction is based on 20' average width, at a cost of \$1,300 per driveway. The annual payment above includes the street construction and driveway cost for each lot.								



**TO:** Interested Citizens,  
Property Owners,  
Tenants and Community Groups

**FROM:** City Engineer's Office

**SUBJECT:** Paving Elm between Nevada and Dougherty

This form may be used to express your comments or concerns either in favor of, or in opposition to, the referenced project. Your comments are welcome, and all written comments will be furnished to the City Council.

**COMMENTS:**

I can't afford to pay the 990<sup>00</sup> A year.  
I don't even live on elm. There are  
only 2 houses on that street. If they  
want it paved so bad let them pay  
for it. You already raised my  
property tax is 300<sup>00</sup> this year. I'm  
gonna have to go without just to  
pay that. I think its stupid to  
make me pay for something I don't  
want. I live on dougherty no elm.

Mrs. Die Trich

RECEIVED

NOV 24 2008

CITY - ENGINEERING

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** Elm Street Paving, between Young and Dougherty (District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

---

**Recommendations:** Approve the Project.

**Background:** On December 16, 2008, the City Council adopted a resolution to hold a January 6, 2009, public hearing on ordering in the paving of Elm Street between Young and Dougherty. On December 1, 2008, District VI Advisory Board sponsored a neighborhood hearing on the project. The Board voted 8-1 to recommend approval of ordering in the project.

**Analysis:** The completed project will be a two-lane asphalt roadway with curb and gutter.

**Financial Considerations:** The estimated project cost is \$125,000 with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.33 per square foot of ownership.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing paved access in an existing neighborhood.

**Legal Considerations:** State Statutes authorize the City Council to order in the paving.

**Recommendation/Actions:** It is recommended that the City Council approve the Project, adopt the Resolution and authorize the necessary signatures.

**Attachments:** Map, Spread Sheet, CIP Sheet, and Resolution.

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-006

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON ELM FROM THE WEST LINE OF DOUGHERTY TO THE EAST LINE OF YOUNG (NORTH OF CENTRAL, WEST OF WEST STREET) 472-84778 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON ELM FROM THE WEST LINE OF DOUGHERTY TO THE EAST LINE OF YOUNG (NORTH OF CENTRAL, WEST OF WEST STREET) 472-84778 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize constructing pavement on Elm from the west line of Dougherty to the east line of young (north of Central, west of West Street) 472-84778.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to One Hundred Twenty-Five Thousand Dollars (\$125,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after October 1, 2008 exclusive of the cost of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

DOUGHERTY PLACE ADDITION

North 8 Feet of the East 167.3 Feet of Lot 1 South 102 Feet East 167.5 Feet Lot 2 Except East 9.8 Feet Thereof For Street South 66.9 Feet Lot 3 Except West 30 Feet For Street & Except Thunderbird 3rd Addition South ½ of the West ½ of the North 1 Acre of Lot 4 Except West 30 Feet For Street East ½ of the North 1 Acre of Lot 4 Except East 10 Feet For Street

JERRY COMBS ADDITION

Lot 1

NIEDENS ADDITION

Lots 1 through 5 Inclusive  
The North 50 Feet of Lot 6  
The North 50 Feet of Lot 14  
Lots 15 through 18 Inclusive

POWELL'S 6TH ADDITION

Lot 1

REPLAT OF PART OF LOT 3, DOUGHERTY PLACE ADDITION

Lots 1, 3, 4, 5  
Lots 2 Except West Half Platted as Jerry Combs Addition

REPLAT OF PART OF LOT 4 DOUGHERTY PLACE ADDITION

Lot 1 and Vacated Murdock on North  
Lot 7 and Vacated Murdock on North  
Lots 2 through 6 Inclusive

THUNDERBIRD 3RD ADDITION

Lot 1

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a square foot basis.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

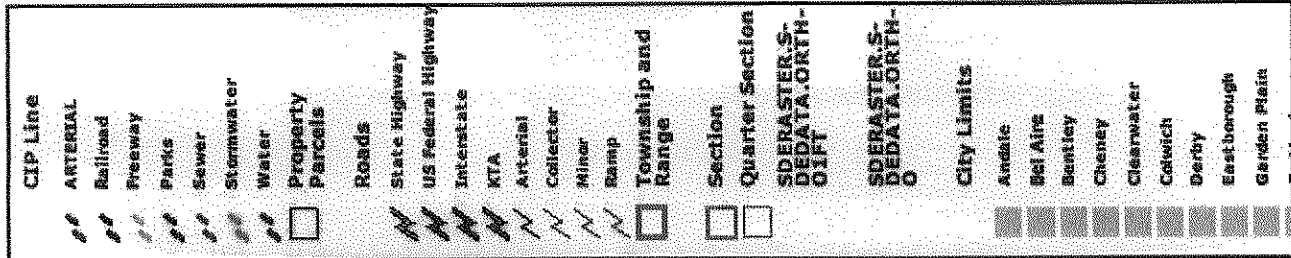
\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)





# Paving



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WICHITA

Estimated assessments for paving Elm from Dougherty to Young.							
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	11/25/08 Annual Payment**	Resident Owners
<b>DOUGHERTY PLACE ADD.</b>							
D 18094	STOVER_JORDAN A & MARY C	753 N DOUGHERTY	S 66.9 FT LOT 3 EXC W 30 FT FOR ST & EXC THUNDERBIRD 3RD. ADD.	10325.9	\$3,438	\$276	2
D 18093	BETZEN_LARRY D & LINDA A 5821 W JUNO WICHITA KS 67215	737 N DOUGHERTY	S 102 FT E 167.5 FT LOT 2 EXC E 9.8 FT THEREOF FOR ST.	15696	\$5,226	\$419	2
D 18091	PHIPPS_ROGER L APT 245 WICHITA KS 67213		N 8 FT E 167.3 FT LOT 1	1160.19	\$386	\$31	1
D 18096	SECREST_JUANITA	813 N DOUGHERTY	E 1/2 N 1A OF LOT 4 EXC E 10 FT FOR ST.	20043.4	\$6,674	\$536	1
D 180970001	MOORE_JESSE W & ANGELA S 4400 RAWHIDE RD UNIT 134 PUEBLO CO 81008	854 N YOUNG	S 1/2 W 1/2 N 1A LOT 4 EXC W 30 FT FOR ST	9231.87	\$3,074	\$247	nr
<b>JERRY COMBS ADD.</b>							
D 28276	GULDNER_WESLEY N & MARY A	770 N YOUNG	LOT 1	10604.3	\$3,531	\$283	2
<b>NIEDENS ADD.</b>							
D 28520	SCHUPBACH INVESTMENTS LLC 3415 W BAYVIEW WICHITA KS 67204	743 N DOUGHERTY	LOT 17 EXC S 10 FT & LOT 18 EXC N 60 FT	8371.57	\$2,787	\$224	1
D 28509	YANDA_SOLEN R ETUX	724 N YOUNG	The North 50 Feet of LOT 6	7868.5	\$2,620	\$210	2
D 28517	AN_LE HOAI & HANH THI NGUYEN ETAL 1307 NORTSHORE WICHITA KS 67212		LOT 14 EXC S 55 FT	908.665	\$303	\$24	3
D 28518	AN_LE HOAI & HANH THI NGUYEN ETAL 1307 NORTSHORE WICHITA KS 67212	725 N DOUGHERTY	LOT 15	9523.09	\$3,171	\$254	repeat
D 28516	COOKS_WILLIE R & EMILY 7110 E 40TH CIR N WICHITA KS 67226	721 N DOUGHERTY	N 45 FT S 55 FT LOT 14	7087.5	\$2,360	\$189	2
D 28505	GORGES_HAROLD ETUX	740 N YOUNG	LOT 2	11153.7	\$3,714	\$298	2
D 28507	JONES_LYLE D ETUX	732 N YOUNG	LOT 4	10969.4	\$3,652	\$293	2
D 28504	KLINGSPORN_ARLENE	744 N YOUNG	LOT 1	12176.7	\$4,054	\$325	1
D 28519	O'GORMAN_MICHAEL S	739 N DOUGHERTY	LOT 16 & S 10 FT LOT 17	10314.3	\$3,434	\$276	1
D 285210001	VERHAGE_JACOB W	747 N DOUGHERTY	N 60 FT LOT 18	9334.61	\$3,108	\$249	1
D 28508	FORBES_MICHAEL J	728 N YOUNG	LOT 5	9682.23	\$3,224	\$259	1
D 28506	SAUER_JAMES E	736 N YOUNG	LOT 3	11226.8	\$3,738	\$300	1
<b>POWELL'S 6TH ADDITION</b>							
D 32170	RAINS_DONNA J & LEONARD	860 N YOUNG	LOT 1	8722.35	\$2,904	\$233	2
<b>REPLAT OF PART OF LOT 3, DOUGHERTY PLACE ADD</b>							
D 179830001	LOWE_BRADLEY W	768 N YOUNG	W 1/2 LOT 3	10214.9	\$3,401	\$273	1
D 17985	LAWRENCE_WILLIAM E ETUX	757 N DOUGHERTY	E 157 FT OF LOT 5	10589	\$3,526	\$283	2

Estimated assessments for paving Elm from Dougherty to Young.							
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	11/25/08 Annual Payment**	Resident Owners
D 179840001	BEACH_STEPHEN D & THERESA	764 N YOUNG	W 1/2 LOT 4	10782.1	\$3,590	\$288	2
D 179850001	SCHOENHALS_DAVID & SUMMER L	758 N YOUNG	LOT 5 EXC E 157 FT THEREOF	10656.2	\$3,548	\$285	2
D 17982	HEMBERGER_MATTHEW J ETAL	771 N DOUGHERTY	LOT 2 EXC W1/2 PLATTED AS JERRY COMBS ADD	10575.7	\$3,521	\$283	2
D 17983	GREENLEE_JASON R	767 N DOUGHERTY	E1/2 LOT 3	10220.1	\$3,403	\$273	1
D 17981	GULDNER_MARY A & WESLEY N 770 N YOUNG WICHITA KS 67212		W 1/2 LOT 1	10430.1	\$3,473	\$279	2
D 17984	HACKETT_JOHN P & JO ANN 550 W CENTRAL AVE APT 1614 WICHITA KS 67203	763 N DOUGHERTY	E 1/2 LOT 4	10757.6	\$3,582	\$287	2
D 179810001	KASPAR_DWAYNE C 779 N DOUGHERTY WICHITA KS 67212	775 N DOUGHERTY	E 1/2 LOT 1	10275.8	\$3,421	\$275	1
<b>REPLAT OF PART OF LOT 4 DOUGHERTY PLACE ADD.</b>							
D 20143	ARNDT_SHELIA RENEE	787 N DOUGHERTY	LOT 7 & VAC MURDOCK ON N	18960	\$6,313	\$507	1
D 20138	BARNES_CANDACE L	822 N YOUNG	LOT 2	8382.2	\$2,791	\$224	1
D 20137	SLAYTON_LARRY & SABRINA M PARKER	832 N YOUNG	LOT 1 & VAC MURDOCK ON N	12958.4	\$4,315	\$346	2
D 20140	TAYLOR_JOHN W ETUX	804 N YOUNG	LOT 4	8324.91	\$2,772	\$222	2
D 20139	WERTH_GALE M 616 S KOKOMO DERBY KS 67037	812 N YOUNG	LOT 3	8209.37	\$2,733	\$219	nr
D 20141	KASPAR_DWAYNE C & KAREN K	779 N DOUGHERTY	LOT 5	9643.09	\$3,211	\$258	2
D 20142	LARSON_RANDALL S & GENINE M	783 N DOUGHERTY	LOT 6	12163	\$4,050	\$325	2
<b>THUNDERBIRD 3RD. ADD.</b>							
D 39556	ANDERSON_TROY D & BETH A	754 N YOUNG	LOT 1	10067.6	\$3,352	\$269	2
				Total:	367,611	\$122,400	54
Abbreviations:							
etal. = and others							
etux. = and wife							
etvir. = and husband							
nr = non resident							
* Estimated assessment for street construction based on \$0.33 per square foot excluding drive approach (if applicable), inflation, and/or temporary financing.							
** Estimated Annual escrow payment based on 5% bond sale rate, and spread over 20 years							
<b>BREAKDOWN OF PROJECT COSTS</b>							
Amount assessed to the improvement district				\$122,400			
Add: City Share for Intersections (0%)				\$0			
Add: Estimated driveway costs***				\$2,600			
Total Estimated project cost				\$125,000			
*** Driveway approach costs are assessed to individual properties based on the actual size of drive approach requested. Driveway approach costs are in addition to the estimated assessment shown for the street construction.							



**TO:** Interested Citizens,  
Property Owners,  
Tenants and Community Groups

**FROM:** City Engineer's Office

**SUBJECT:** Paving Elm between Dougherty to Young

This form may be used to express your comments or concerns either in favor of, or in opposition to, the referenced project. Your comments are welcome, and all written comments will be furnished to the City Council.

**COMMENTS:**

*We have lived with Elm being unpaved for many years. Also the flooding of Dougherty since it was paved. It does seem with the economy the way it is, so many people lost their savings that it could be put off for a time.*

*Also on the charging owners half way to the next street. If the land that was given for Murdock to be located and maintained south of my property, several of us would not now be charged. Please reconsider at this time.*

*Thank you  
Juanita Seerest  
813 Dougherty  
Wichita, Ks 67212*

*D-18096*



**TO:** Interested Citizens,  
Property Owners,  
Tenants and Community Groups

**FROM:** City Engineer's Office

**SUBJECT:** Paving Elm between Dougherty to Young

This form may be used to express your comments or concerns either in favor of, or in opposition to, the referenced project. Your comments are welcome, and all written comments will be furnished to the City Council.

**COMMENTS:**

No, I opposed for  
paving elm Street due to  
property Tax increase.

Shanké,  
Stephen & Jhonisa  
Beach

CAPITAL IMPROVEMENT									
PROJECT AUTHORIZATION									
CITY OF WICHITA									
USE: 1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.									
1. Initiating Department Public Works		2. Initiating Division Eng		3. Date 12/17/2008		4. Project Description & Location Pave Elm, Dougherty - Young			
5. CIP Project Number NI-200424		6. Accounting Number		7. CIP Project Date (Year) 2009		8. Approved by WCC Date			
9. Estimated Start Date		10. Estimated Completion Date		11. Project Revised					
As Required		As Required		12A.					
12. Project Cost Estimate									
ITEM	GO	SA	OTHER *	TOTAL					
Right of Way									
Paving			\$125,000	\$125,000					
Bridge & Culverts									
Drainage									
Sanitary Sewer									
Sidewalk									
Water									
Street Lights									
Totals			\$125,000	\$125,000					
Total CIP Amount Budgeted									
Total Prelim. Estimate				472-84778					
13. Recommendation: Approve the Project and Adopt the resolution									
Division Head <i>John Anderson</i>		Department Head <i>John M. Can...</i>		Budget Officer <i>Patricia Hill</i>		City Manager <i>12/17/2002</i>			

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** Grants Review Committee Appointments

**INITIATED BY:** Housing and Community Services Department

**AGENDA:** New Business

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**Recommendation:** Approve appointments for the 2009 Grants Review Committee.

**Background:** On March 28, 2000, the City Council approved the change in composition of the Grants Review Committee due to the abolishment of the Human Services Advisory Board and the Citizen Participation Organization. The Grants Review Committee is comprised of twelve (12) members from the following areas: 4-District Advisory Board; 1-United Way; 1-Sedgwick County; 1-USD #259; 2-Wichita Independent Neighborhood Association; 1-Wichita State University; 1-large business and 1-small business.

**Analysis:** The Grants Review Committee will review the proposals received for Women's Services, Summer Youth Employment, Youth Recreation & Enrichment as well as the funding applications received for HOME CHDO projects and Emergency Shelter Grant programs. The Grants Review Committee will hold at least one public hearing to allow for oral presentations and will make funding recommendations to the City Manager for presentation to the City Council.

Nominations for the 2009 Grants Review Committee have been received from each agency in accordance with the Consolidated Plan. A list of the nominees received for the 2009 Grants Review Committee is attached.

**Financial Considerations:** The Grants Review Committee serves without remuneration.

**Goal Impact:** Decisions made by the Grants Review Committee will impact Economic Vitality and Affordable Living, Quality of Life and Core Area and Neighborhood goals.

**Legal Considerations:** City staff have completed the required actions and the Council may make the appointments to the Grants Review Committee.

**Recommendation/Action:** It is recommended that the City Council approve the appointments to the 2009 Grants Review Committee. It is further recommended that the City Council authorize the City Manager to appoint a replacement(s), in the event that an appointee is unable to serve.

**Attachments:** List of Grants Review Committee nominations.

**2009 GRANTS REVIEW COMMITTEE  
NOMINEE LIST**

**Small Business (1)**

Ken Bender  
Pro Max America LLC

**Large Business (1)**

Joyce Dixson  
Intrust Bank

**District Advisory Boards (4)**

I        James Thompson  
III      Judy Dillard  
IV      Joshua Blick  
VI      Marsha Nelson Carr

**Sedgwick County (1)**

Tim Kaufman

**United Way (1)**

Patrick Hanrahan

**USD #259 (1)**

Dr. Russ Miller

**Wichita State University (1)**

Andrew J. Schlapp

**Wichita Independent Neighborhoods (2)**

Patricia Fields  
Larry White, WIN Board



**2009 GRANTS REVIEW COMMITTEE  
NOMINEE LIST**

**Small Business (1)**

Ken Bender  
Pro Max America LLC

**Large Business (1)**

Joyce Dixon  
Intrust Bank

**District Advisory Boards (4)**

I        James Thompson  
III      Judy Dillard  
IV      Joshua Blick  
VI      Marsha Nelson Carr

**Sedgwick County (1)**

Tim Kaufman

**United Way (1)**

Patrick Hanrahan

**USD #259 (1)**

Dr. Russ Miller

**Wichita State University (1)**

Dr. Eric Sexton

**Wichita Independent Neighborhoods (2)**

Patricia Fields  
Larry White, WIN Board

**City of Wichita**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council

**SUBJECT:** ZON2008-00057 – Zone change from B Multi-family (“B”) to LC Limited Commercial (“LC”); generally located south and east of the intersection of Elm Street and Glendale Avenue (east of Oliver Avenue and north of Central Avenue). (District I)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**DAB I Recommendation:** Approve LC Limited Commercial (“LC”) zoning subject to Protective Overlay #223 (unanimous).

**MAPC Recommendation:** Approve LC Limited Commercial (“LC”) zoning subject to Protective Overlay #223 (12-0).

**MAPD Staff Recommendation:** Approve LC Limited Commercial (“LC”) zoning subject to Protective Overlay #223.



**Background:** The co-applicants are seeking to rezone 0.7-acre from B Multi-family Residential (“B”) to LC Limited Commercial (“LC”) located at the southeast corner of the intersection of Elm and Glendale (4901-4911 East Elm Street) or northeast of the intersection of Oliver and Central Avenue. The application area contains 29,566 square feet. The application area is owned by the same two companies, Central & Oliver Holdings, LLC and MGW, Inc. that own the property located to the south, southwest and northwest of the application area. In 2007, the property to the northwest was rezoned from B to LC (ZON2007-58, subject to PO-201). The application area has three residences located on the property. The application area has street frontage on Elm Street, a local residential street with 60 feet of right-of-way that runs east-west, marking the northern limits of the application area; Elm Street then diagonals to the southwest, forming the western boundary of subject site. The stub portion of Elm Street is the subject of a vacation application (VAC2008-18). If approved, the vacated portion of Elm Street would create for the applicants a fully unified ownership pattern.

Property to the north of the subject site is zoned TF-3 Two-family Residential (“TF-3”) and SF-5 Single-family Residential (“SF-5”) and developed with residences. Property to the east and southeast is zoned SF-5 and B and is developed with residential uses. Property located to the south is zoned LC, as is the land to the west and northwest. A portion of the land to the northwest is subject to PO-201, noted above. The land to the northwest and west is currently being redeveloped. Since the owners of the subject site are also the owners of the land to the south and west, it is anticipated the subject site will be added to the applicants other properties to create a larger site with unified zoning.

Zoning screening, compatibility standards (setbacks, height, screening of dumpsters and work areas) and landscape ordinance requirements will aid in mitigating anticipated impacts.

Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the provisions of Protective Overlay #223:

1. Prior to the issuance of building permits, the applicant shall provide, either by replat or dedication, cross lot access between the site and the applicant’s abutting property to the south and west; and dedicate complete access control onto Elm Street and Glendale Avenue.
2. Prior to the issuance of building permits, the applicant shall obtain an approved drainage plan for the site.
3. Signage shall be per the Sign Code, except that ground or pole signs shall be restricted to monument style; ground or pole signage is not permitted along Elm Street or Glendale Avenue frontages; wall or building signage is not permitted on facades that face residential zoning and off-site or billboard signs are prohibited.
4. Light poles or standards shall be limited to a maximum height of 15 feet including base/pedestal. Light fixtures shall be shielded and directed to prevent light from escaping the site.

**Analysis:** At the District Advisory Board I meeting held on December 1, 2008, DAB I voted (unanimously) to approve the LC zoning subject to Protective Overlay #223. At the MAPC meeting held December 4, 2008, the MAPC voted (12-0) to approve LC zoning subject to Protective Overlay #223 detailed above.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #223; place the ordinance establishing the zone change on first reading; or
2. Return the application to the MAPC for reconsideration; or
3. Deny the application.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2008-00057

Zone change from B Multi-family Residential ("B") to Limited Commercial ("LC") subject to Protective Overlay #223 on property described as:

Lots 20-26, Block 14, East Highlands Addition to the City of Wichita, Sedgwick County, Kansas

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #223:

1. Prior to the issuance of building permits, the applicant shall provide, either by replat or dedication, cross lot access between the site and the applicant's abutting property to the south and west; and dedicate complete access control onto Elm Street and Glendale Avenue.
2. Prior to the issuance of building permits, the applicant shall obtain an approved drainage plan for the site.
3. Signage shall be per the Sign Code, except that ground or pole signs shall be restricted to monument style; ground or pole signage is not permitted along Elm Street or Glendale Avenue frontages; wall or building signage is not permitted on facades that face residential zoning and off-site or billboard signs are prohibited.
4. Light poles or standards shall be limited to a maximum height of 15 feet including base/pedestal. Light fixtures shall be shielded and directed to prevent light from escaping the site.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, \_\_\_\_\_

\_\_\_\_\_  
Carl Brewer - Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_





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## INTEROFFICE MEMORANDUM

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**TO:** Wichita City Council  
MAPC Members

**FROM:** LaShonda Porter, Neighborhood Assistant, District 1

**SUBJECT:** ZON2008-00057

**DATE:** December 2, 2008

On Monday, December 1<sup>st</sup>, the District Advisory Board (DAB) for Council District 1 considered zone change from Multi-family residential to Limited Commercial for the property located the southeast corner of Elm and Glendale (northeast intersection of Central and Oliver).

The Board members and citizens present had the following concerns:

- If the developer would build facing the residential area.
- What the plans for the site included..

The agent was present and stated that the developer would not build facing the residential area and that the intended use of the property had not been determined.

**DAB members voted 7-0 to recommend approval of this request. *Debra Miller-Stevens abstained from the vote.***

## EXCERPT FROM THE DECEMBER 4, 2008 MAPC HEARING

1. **Case No.: ZON2008-57** – Central & Oliver Holdings, LLC and MGW, Inc., (Roger Mathews) / Tim Austin (Poe & Associates, Inc.,) Request City zone change from B Multi-family Residential to LC Limited Commercial on property described as:

Lots 20, 21, 22, 23, 24, 25 and 26, Block 14, East Highlands, Sedgwick County, Kansas;  
generally located south of Elm Street and east of Glendale Avenue.

**BACKGROUND:** The co-applicants are seeking to rezone .7-acre from B Multi-family Residential (“B”) to LC Limited Commercial (“LC”) located at the southeast corner of the intersection of Elm and Glendale (4901-4911 East Elm Street) or northeast of the intersection of Oliver and Central Avenue. The application area contains 29,566 square feet. The application area is owned by the same two companies, Central & Oliver Holdings, LLC and MGW, Inc. that own the property located to the south, southwest and northwest of the application area. In 2007, the property to the northwest was rezoned from B to LC (ZON2007-58, subject to PO-201). The application area has three residences located on the property. The application area has street frontage on Elm Street, a local residential street with 60 feet of right-of-way that runs east-west, marking the northern limits of the application area; Elm Street then diagonals to the southwest, forming the western boundary of subject site. The stub portion of Elm Street is the subject of a vacation application (VAC2008-18). If approved, the vacated portion of Elm Street would create for the applicants a fully unified ownership pattern.

Property to the north of the subject site is zoned TF-3 Two-family Residential (“TF-3”) and SF-5 Single-family Residential (“SF-5”), and developed with residences. Property to the east and southeast is zoned SF-5 and B, and is developed with residential uses. Property located to the south is zoned LC, as is the land to the west and northwest. A portion of the land to the northwest is subject to PO-201, noted above. The land to the northwest and west is currently being redeveloped. Since the owners of the subject site are also the owners of the land to the south and west, it is anticipated the subject site will be added to the applicants other properties to create a larger site with unified zoning.

Zoning screening, compatibility standards (setbacks, height, screening of dumpsters and work areas) and landscape ordinance requirements will aid in mitigating anticipated impacts.

**CASE HISTORY:** The application area is platted as Lots 20-26, Block 14, East Highlands Addition.

### **ADJACENT ZONING AND LAND USE:**

NORTH:	TF-3	Two-family Residential, SF-5 Single-family Residential; residences
SOUTH:	LC	Limited Commercial; retail sales and restaurant
EAST:	SF-5	Single-family Residential; residences
WEST:	LC	Limited Commercial; vacant, fast food restaurant

**PUBLIC SERVICES:** All municipal services and utilities are available. Glendale Avenue is a paved residential street, as is Elm Street, with 60 feet of street right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide,” of the Comprehensive Plan identifies the site as appropriate for “urban residential.” The urban residential category includes all densities of residential development found within a large urban municipality. The site is also located within the *Central Northeast Area Plan* that recommends retaining existing businesses and attracting new businesses that would provide more neighborhood serving retail and personal services.



**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the provisions of Protective Overlay 223:

1. Prior to the issuance of building permits, the applicant shall provide, either by replat or dedication, cross lot access between the site and the applicant's abutting property to the south and west; and dedicate complete access control onto Elm Street and Glendale Avenue.
2. Prior to the issuance of building permits, the applicant shall obtain an approved drainage plan for the site.
3. Signage shall be per the Sign Code, except that ground or pole signs shall be restricted to monument style; ground or pole signage is not permitted along Elm Street or Glendale Avenue frontages; wall or building signage is not permitted on facades that face residential zoning and off-site or billboard signs are prohibited.
4. Light poles or standards shall be limited to a maximum height of 15 feet including base/pedestal. Light fixtures shall be shielded and directed to prevent light from escaping the site.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Zoning in the area surrounding the application area is a mix of zoning and uses: SF-5 Single-family Residential, TF-3 Two-family Residential and LC Limited Commercial zoning with a variety of uses ranging from single-family to fast food restaurants, retail shopping and vacant. The application area is an "edge" of a long established neighborhood whose earlier commercial uses have become obsolete. With the redevelopment of the original commercial sites, it is natural for peripheral adjoining property to be acquired and rezoned to compliment the redevelopment of the original retail core.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned B Multi-family Residential with residences located on two of the lots. The B district permits medical office use and a wide range of multi-family residential to single-family residential uses. The site could continue to be used as currently zoned and developed. However, the desirability of the property for residential uses has probably decreased with the commercial redevelopment of the property to the west, and the existing retail uses located to the south. Approving the requested zoning so the application area can be added to the larger redevelopment efforts will enhance the corner of Oliver and Central.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will move non-residential uses closer to the residential uses located to the north of Elm. However, required screening, setbacks and landscaping, and the proposed conditions of approval should minimize foreseeable detrimental effects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval should allow for improved redevelopment opportunities that should provide an increased level of neighborhood serving retail uses. Denial presumably would be an economic hardship on the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is not consistent with the city-wide view of the "Comprehensive Plan's" designation as "urban residential." However, the more detailed *Central Northeast Area Plan* indicates that it is appropriate to take actions that would attract new businesses that would provide more neighborhood serving retail and personal services. This application accomplished that specific goal.

6. Impact of the proposed development on community facilities: Traffic generation will increase, however existing improvements to Central and Oliver are capable of carrying the increased trips. All other services are available.

**DALE MILLER**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (12-0).

## EXCERPT OF THE NOVEMBER 20, 2008 MAPC HEARING

**Case No.: ZON2008-62 and CUP2008-45** – ACCN Enterprises LLC c/o Craig Nelson (owner); MKEC c/o Greg Allison (agent) Request City zone change from SF-5 Single-family Residential to LC Limited Commercial and Creation of the Summit Crossing Commercial Community Unit Plan on property described as:

Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Lakeside Acres Second Addition, Sedgwick County, Kansas.

A tract of land located in Lots 7, 8 and 9, Lakeside Acres Second Addition, an addition to Sedgwick County, Kansas, and being more particularly described as follows:

The west 225.00 feet of the south 69.5 feet of said Lot 7;

TOGETHER WITH,

The west 225.00 feet of said Lots 8 and 9; generally located south of 21st Street North and west of 127th Street East.

**BACKGROUND:** The applicant proposes to create a Commercial Community Unit Plan containing 13.51 acres, consisting of twelve parcels for development. The property is currently zoned SF-5 Single-family Residential (“SF-5”) and the proposed zoning is “LC” Limited Commercial. The property is located on the Southwest corner of 21<sup>st</sup> Street North and 127<sup>th</sup> Street East. The proposed development has Parcels 1 through 7 north of a dedicated street, and Parcels 8 through 11 to the south. Garnett, a dedicated local street is on the development’s west boundary.

The applicant requests a commercial CUP with LC land uses on all parcels except for parcels 9 and 12, which are restricted to NR Neighborhood Retail (“NR”) uses. Additional restrictions are for correctional placement residences, adult entertainment, pawn shops, and asphalt or concrete plants limited. If adjoining property remains residential, the south 200 feet has restrictions for convenience stores, service stations, auto repair, car washes, restaurants with drive-in or drive-through windows, and tavern/drinking establishments. No overhead doors are permitted within 200 feet of residential land use, and overhead doors may not face residential zoning unless screened. Car washes are subject to the UZC supplementary conditions.

Building heights are limited to 55 feet, except for on parcels 9 through 12 where they are limited to 35 feet; building coverage and FAR is limited to 35% on all Parcels. Building Setbacks along Garnett are proposed to be 25 feet; this does not meet the UZC required 35 foot setback for CUPs. Parking lot lighting is limited to 25 feet in height, except for within 150 feet of residential uses where it is restricted to 15 feet.

Signage is primarily consistent with the Sign Code for LC zoning, and NR zoning on parcels 9 and 12. No flashing, moving, portable, billboard, banner, or pennant signs are permitted. An LED sign is permitted for Parcel 1. One 25-foot tall development sign is permitted on Parcel 1 at 200 square feet, all other signs on arterials are limited to 12 feet in height and 120 square feet. All signs along Garnett are limited to eight feet in height and 100 square feet.

Access from 21<sup>st</sup> Street N will be limited to one right-in right-out opening. The applicant requests unlimited access from Garnett. Access from 127<sup>th</sup> does not meet the access management policy standard

of 200-foot separation between right-in right-out openings and 400-foot separation between full access openings. The proposed access along 127<sup>th</sup> does align with the approved access for the Reed Commercial CUP development to the immediate east, across 127<sup>th</sup> Street East. A raised median is proposed on 127<sup>th</sup> Street East, immediately east of the applicant's northernmost right-in right-out opening. The CUP requires a pedestrian circulation plan linking all buildings to the arterial sidewalks. Architectural controls require consistent building materials and colors, and prohibit metal as a predominant exterior wall material. A masonry screening wall is required along the south boundary. Development of all parcels within the CUP shall comply with the Landscape Ordinance of the City of Wichita.

Property north of this site is zoned SF-5 and developed with a church and school. Abutting the south boundary of the site are two SF-5 zoned residences fronting on 19<sup>th</sup> Street North; further south are residences fronting on both Garnett and 127<sup>th</sup> Street East. East of the site is the LC zoned Reed Commercial CUP, and MF-18 Multi-family Residential ("MF-18") vacant platted lots. West of the site is an SF-5 zoned private high school.

**CASE HISTORY:** The property was platted as Lots 1 through 9 of the Lakeside Acres 2<sup>nd</sup> Addition in 1955. All lots have remained vacant except for Lot 6 which is developed with a single-family residence. The plat for this development was approved per staff comments by the Subdivision Committee on November 13, 2008.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Church, school
SOUTH:	SF-5	Residences
EAST:	LC, MF-18	Commercial development, vacant residential
WEST:	SF-5	High school

**PUBLIC SERVICES:** 21<sup>st</sup> Street North and 127<sup>th</sup> Street East are both section line arterial streets with 120-foot right-of-ways (ROW) tapering to a 150-foot ROW at the intersection. 21<sup>st</sup> Street north has a current traffic count of 9,487 vehicles per day; no traffic count is available for 127<sup>th</sup> Street East. Garnett is a paved local street with a 60-foot ROW. Access as shown on the CUP has been approved per staff comments by the Subdivision Committee. All other public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial" development. This category is designated for commercial, office and personal service uses that do not have a significant regional market draw, the proposed development is in conformance with this designation.

**Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, and provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural, landscaping, parking lot elements and lighting and signage consistency and/or compatibility, cross-lot circulation, a site circulation plan, and combined ingress-egress. **Strategy III.B.3** seeks to reduce access points along arterial streets.

**Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline, with the exception of the Garnett frontage. **Commercial Locational Guideline #3** recommends site

design features that limit noise, lighting and other aspects that may adversely affect residential use, and #4 recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 25 feet, reduced to 15 feet within 150 feet of residential use and reduces the types of uses, restricts overhead doors and drive-through uses located near residential lots.

**RECOMMENDATION:** The CUP limits Parcels 9 and 12 to NR uses and signage; Parcel 11 abuts a residence to the south, and should have the same restrictions. Likewise, south facing building signs on Parcels 11 and 12 should be prohibited to protect the abutting residences. The applicant asks to reduce the code required 35-foot setback on Garnett to 25 feet. This reduction could be a benefit to the surrounding neighborhoods with increased pedestrian accessibility if the applicant provides a sidewalk along Garnett and Shadybrook. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year, and subject to the following conditions:

- A. **APPROVE** the zone change (ZON2008-62) to LC Limited Commercial subject to platting within one year;
- B. **APPROVE** the Community Unit Plan (DP-317), subject to the conditions of the CUP attached and the following conditions:
  - 1. Revise General Provision #3B to include Parcel 11.
  - 2. Revise General Provision #6A to include Parcel 11 as restricted to NR signage.
  - 3. Add General Provision #6M to state “The total amount of sign face area of freestanding signage along Garnett shall not exceed 0.5 times the linear frontage.
  - 4. Add General Provision #6N to state “No building signs on Parcels 11 or 12 shall face south.”
  - 5. Add General Provision #13E to state “A guarantee for a sidewalk to City of Wichita standards along Garnett and Shadybrook shall be provided at the time of platting.”
  - 6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  - 7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  - 8. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-317) includes special conditions for development on this property.
  - 9. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

- 1. **The zoning, uses and character of the neighborhood:** The site currently is mostly vacant with one single-family residence. Property north of this site is zoned SF-5 and developed with a church and school. Abutting the south boundary of the site are two SF-5 zoned residences fronting on 19<sup>th</sup> Street North; further south are residences fronting on both Garnett and 127<sup>th</sup> Street East. East of the site is the LC zoned Reed Commercial CUP, and MF-18 vacant platted lots. West of the site is an SF-5 zoned private high school.
- 2. **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 Single-family Residential, and could be developed as such. However, the community’s long established commercial development pattern has been to place retail zoning and commercial uses on property located at the intersections of section line roads.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the commercial use on the nearby residential areas will be decreased by use restrictions, additional site restrictions nearer residential development, consistency in design elements such as architectural elements, landscaping, lighting and signage. Garnett, a residential street will see an increase in commercial traffic, affecting residents further south on Garnett.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial” development. This category is designated for commercial, office and personal service uses that do not have a significant regional market draw, the proposed development is in conformance with this designation. The CUP is in general conformance with the goals and guidelines of the *Wichita-Sedgwick County Comprehensive Plan*; it does not conform to the Access Management Policy separation standards for access points, and it does not conform to the Zoning Code required 35-foot building setback along Garnett.
5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase on 21<sup>st</sup> Street North, 127<sup>th</sup> Street East, and Garnett. The platting process will finalize access issues and guarantees.

**JESS MCNEELY**, Planning Staff presented the Staff Report.

**GREG ALLISON, MKEC ENGINEERING** representing the applicant said they have coordinated with staff and are in agreement with staff comments. He said 21st Street will be improved in the future, and he believes that will address some of the traffic concerns. He said he also believes 127<sup>th</sup> Street will receive similar improvements as time goes by. He explained that the property owners have worked out an agreement with the contractor working on 21<sup>st</sup> street to do grading work and that the dirt will be returned to the site later; that is why there are bulldozers on the site presently.

**BENJAMIN LEADER, 1968 N. GARNETT** said he has lived at that residence for 40 years, and that he has several comments and questions concerning the proposal. He also mentioned that bulldozers were already doing work at the site, he thought on the assumption that the Commission will vote favorably for the project. He said he did not feel the masonry screening wall along the south border was enough protection for the neighbors to the south. He said he would like to see berms with trees to screen residences to the south because he felt a wall was unsightly. He also mentioned that traffic can't get out onto 21<sup>st</sup> Street from either Garnett or 127<sup>th</sup> Street. He said he also wanted to discuss the broad scope of activities allowed under LC Limited Commercial zoning. He asked for detailed information concerning the proposed masonry barrier between the LC and residential zoning, including the 35-foot setback and landscaping.

**MCNEELY** commented that the Landscape Code has multiple buffering requirements, including 40 feet between trees.

**LEADER** said he doesn't think a masonry fence is enough to separate Limited Commercial zoning from Residential zoning. He said street work is seriously needed in the area. He mentioned development in that area including churches and schools and added the Limited Commercial zoning could mean quite a number of different businesses that could generate noise and traffic.

**FOSTER** asked how tall a berm Mr. Leader desired.

**LEADER** said he was not a landscape person but something similar to different locations he has seen around the City.

**KYLE STEVENS, 2000 GARNETT** said he realizes you can't stop progress but added that he has lived in the area a long time when there was nothing there and it was quiet. He said since then schools, churches, and nice big houses to the east have been added. He said what concerns him the most is the concrete fence (barrier) proposed along the north side of the houses. He said it isolates him in that this is all he'll ever have. He said the fence might affect his ability to sell and his property value if the back is walled off and that makes him nervous. He also mentioned that when it rains, the backyard fills up with water and he is worried that all the concrete construction might make that a bigger issue. He said other than that, he doesn't like the idea.

**FOSTER** commented that there have been similar cases where the applicant has built landscaped barriers onto adjacent property. He asked if that would be acceptable to Mr. Stevens.

**STEVENS** said he was more in favor of any natural sort of barrier, rather than a prison like concrete wall.

**MARNELL** asked if the drainage would be considered at platting.

**STRAHL** reported that the Drainage Plan had been approved by Storm Water.

**GREG ALLISON, MKEC ENGINEERING** said the landscaping they proposed was within City Code and that it was a little bit more doable as far as the wall was concerned. He said they never talked to the client as if there wouldn't be a wall. He said they would be willing to spend money on landscaping; wall and landscaping; or no wall and just landscaping subject to the Commission's thoughts and directions.

**MCKAY** asked about the other people to the south, and commented that both property owners would both have to agree on the proposed screening one way or the other.

**ALLISON** suggested a wall with landscaping.

**FOSTER** asked if there was adequate room going north to accommodate a 6-foot high berm.

**ALLISON** said an 8-foot berm would be a struggle, but that a 6-foot berm would be easier to accommodate with the 35-foot setback. He mentioned a 4-6 foot berm and 6-foot wall with evergreen type trees to soften the wall for the neighbors.

**MARNELL** clarified then he was proposing both a wall and a berm.

**ALLISON** said yes, they have room to do both. He suggested maybe a 4-foot berm would not be out of the question.

**HILLMAN** asked if they could contour the berm and landscape to help deter water running to the south.

**ALLISON** said that could help. He also mentioned forcing the drainage grade to the center where the detention pond was located. He said it was always their intention not to drain water onto the properties to the south, outside of easements.

**MCKAY** clarified that both people to the south agreed to that.

**STEVENS** said he didn't know if he could answer that question because he can't speak for the person who lives east of him. He said he could live with the berm if that is what the question is. He said he would rather go with natural landscaping as opposed to concrete block.

**HILLMAN** said it was suggested that the applicant would be willing to work with both neighbors and adapt the process.

**MARNELL** clarified so the intent was to give the applicant the flexibility of either a wall or a berm when working with the neighbors.

**HILLMAN** said yes.

**MOTION:** To approve subject to staff recommendation and to change the screening requirements to a wall or a berm.

**HILLMAN** moved, **MCKAY** seconded the motion, and it carried (8-0).



## General Provisions

- [illegible]



City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council

**SUBJECT:** CUP2008-45 and ZON2008-62 – Creation of DP-317 Summit Crossing Community Unit Plan and zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”); generally located south of 21st Street North and west of 127th Street East. (District II)

**INITIATED BY:** Metropolitan Area Planning Department

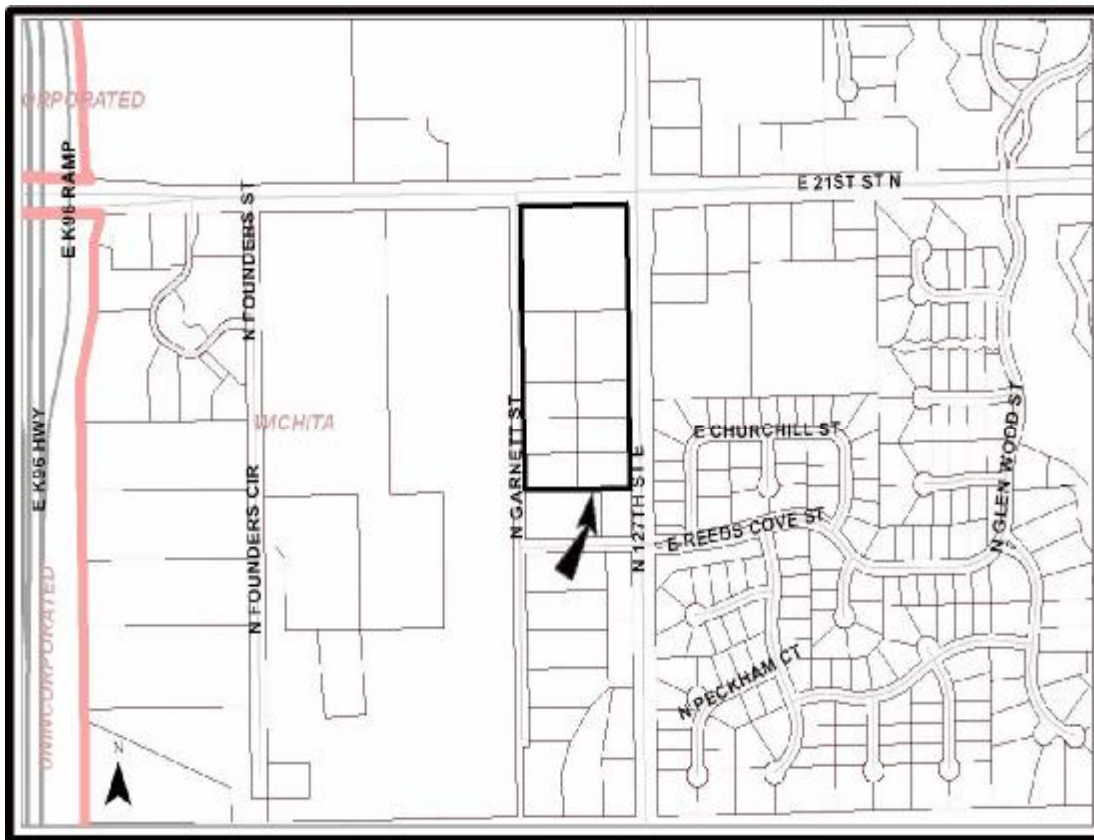
**AGENDA:** Planning (Consent)

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**MAPC Recommendations:** Approve, subject to staff recommendations (8-0)

**MAPD Staff Recommendations:** Approve, subject to conditions

**DAB II Recommendations:** Not applicable, not heard by DAB II



**Background:** The applicant proposes to create a Commercial Community Unit Plan containing 13.51 acres, consisting of twelve parcels for development. The property is currently zoned SF-5 Single-family Residential (“SF-5”) and the proposed zoning is “LC” Limited Commercial. The property is located on the Southwest corner of 21<sup>st</sup> Street North and 127<sup>th</sup> Street East. The proposed development has Parcels 1 through 7 north of a dedicated street, and Parcels 8 through 11 to the south. Garnett, a dedicated local street is on the development’s west boundary.

The applicant requests a commercial CUP with LC land uses on all parcels except for parcels 9 and 12, which are restricted to NR Neighborhood Retail (“NR”) uses. Additional restrictions are for correctional placement residences, adult entertainment, pawn shops, and asphalt or concrete plants limited. If adjoining property remains residential, the south 200 feet has restrictions for convenience stores, service stations, auto repair, car washes, restaurants with drive-in or drive-through windows, and tavern/drinking establishments. No overhead doors are permitted within 200 feet of residential land use, and overhead doors may not face residential zoning unless screened. Car washes are subject to the UZC supplementary conditions.

Building heights are limited to 55 feet, except for on parcels 9 through 12 where they are limited to 35 feet; building coverage and FAR is limited to 35% on all Parcels. Building Setbacks along Garnett are proposed to be 25 feet; this does not meet the UZC required 35 foot setback for CUPs. Parking lot lighting is limited to 25 feet in height, except for within 150 feet of residential uses where it is restricted to 15 feet.

Signage is primarily consistent with the Sign Code for LC zoning, and NR zoning on parcels 9 and 12. No flashing, moving, portable, billboard, banner, or pennant signs are permitted. An LED sign is permitted for Parcel 1. One 25-foot tall development sign is permitted on Parcel 1 at 200 square feet, all other signs on arterials are limited to 12 feet in height and 120 square feet. All signs along Garnett are limited to eight feet in height and 100 square feet.

Access from 21<sup>st</sup> Street N will be limited to one right-in right-out opening. The applicant requests unlimited access from Garnett. Access from 127<sup>th</sup> does not meet the access management policy standard of 200-foot separation between right-in right-out openings and 400-foot separation between full access openings. The proposed access along 127<sup>th</sup> does align with the approved access for the Reed Commercial CUP development to the immediate east, across 127<sup>th</sup> Street East. A raised median is proposed on 127<sup>th</sup> Street East, immediately east of the applicant’s northernmost right-in right-out opening. The CUP requires a pedestrian circulation plan linking all buildings to the arterial sidewalks. Architectural controls require consistent building materials and colors, and prohibit metal as a predominant exterior wall material. A masonry screening wall is required along the south boundary. Development of all parcels within the CUP shall comply with the Landscape Ordinance of the City of Wichita.

Property north of this site is zoned SF-5 and developed with a church and school. Abutting the south boundary of the site are two SF-5 zoned residences fronting on 19<sup>th</sup> Street North; further south are residences fronting on both Garnett and 127<sup>th</sup> Street East. East of the site is the LC zoned Reed Commercial CUP, and MF-18 Multi-family Residential (“MF-18”) vacant platted lots. West of the site is an SF-5 zoned private high school.

**Analysis:** The MAPC considered the Community Unit Plan and zone change request at their November 20, 2008 meeting. Two neighbors spoke at the hearing with concerns regarding drainage, screening, and landscaping. The MAPC decided on an amendment to staff recommendations to allow screening on the south boundary to be met with a landscaped berm and/or a wall.

The action of the MAPC was to **APPROVE** subject to replatting within one year, and subject to the following conditions:

- A. **APPROVE** the zone change (ZON2008-62) to LC Limited Commercial subject to platting within one year;
- B. **APPROVE** the Community Unit Plan (DP-317), subject to the conditions of the CUP attached and the following conditions:

1. Revise General Provision #3B to include Parcel 11.
2. Revise General Provision #4E shall be amended to add "The CUP masonry wall requirement may be met with a masonry wall and/or a landscaped earth berm."
3. Revise General Provision #6A to include Parcel 11 as restricted to NR signage.
4. Add General Provision #6M to state "The total amount of sign face area of freestanding signage along Garnett shall not exceed 0.5 times the linear frontage.
5. Add General Provision #6N to state "No building signs on Parcels 11 or 12 shall face south."
6. Add General Provision #13E to state "A guarantee for a sidewalk to City of Wichita standards along Garnett and Shadybrook shall be provided at the time of platting."
7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
8. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
9. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-317) includes special conditions for development on this property.

The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC and approve the community unit plan and the zone change to LC Limited Commercial ("LC") subject to re-platting within one year and conditions; approve first reading of the ordinance and instruct the City Clerk to withhold publication of the ordinance until the plat is recorded; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

**ORDINANCE NO. 48-157**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

**BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.**

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2008-62**

Zone change request from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") on property described as:

Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Lakeside Acres Second Addition, Sedgwick County, Kansas.

**SECTION 2.** That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.**

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

**City of Wichita**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council

**SUBJECT:** ZON2008-00065 – Zone change from GI General Industrial (“GI”) to SF-5 Single-family Residential (“SF-5”). Generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road. (District VI)

**INITIATED BY:** Metropolitan Area Planning Department

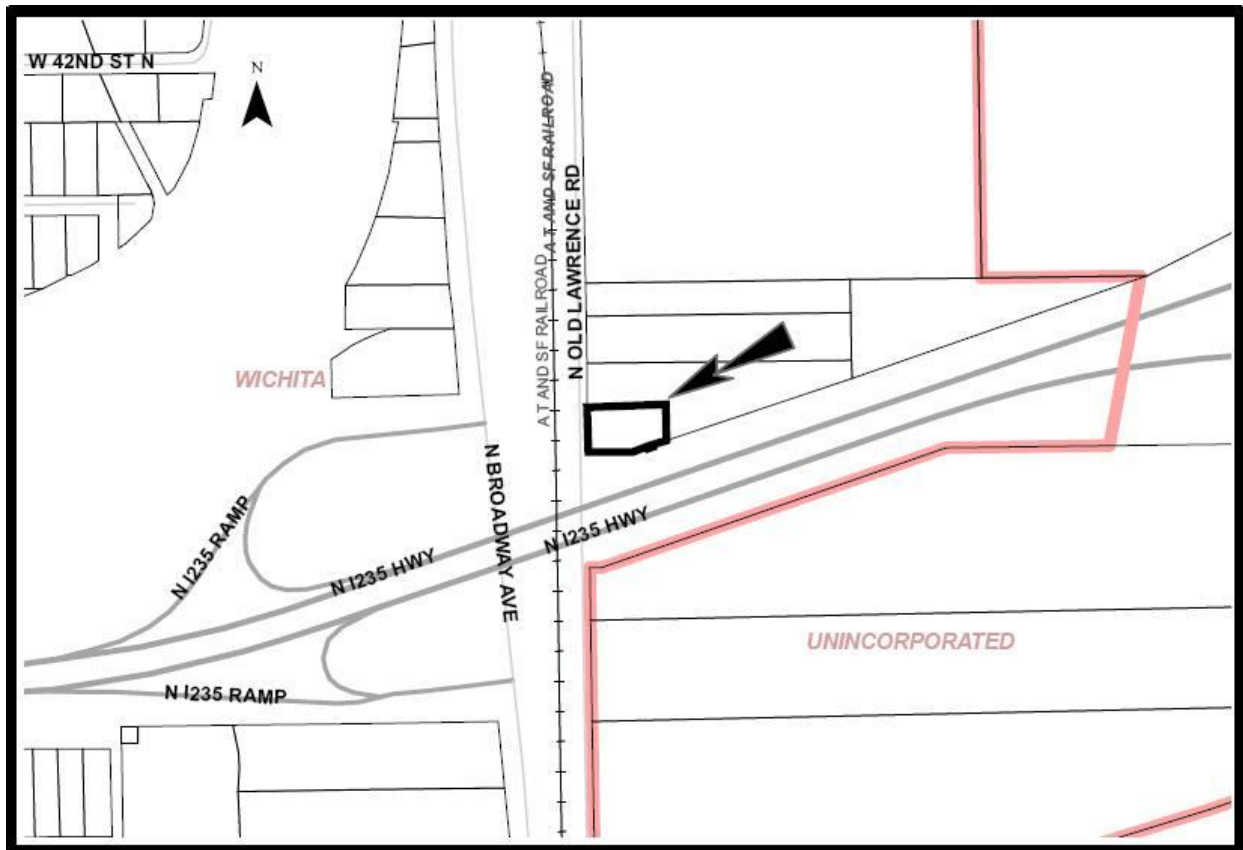
**AGENDA:** Planning (Consent)

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**MAPC Recommendations:** Approve, subject to eliminating the north and east five feet of the property. (12-0).

**MAPD Staff Recommendations:** Approve.

**DAB Recommendations:** Approve (8-0).



**Background:** The applicant is requesting a zone change from GI General Industrial (“GI”) to SF-5 Single-Family Residential (“SF-5”) in order to make the zoning conform to its existing residential use, a single-family residence built in 1930. The applicant has indicated the wish to retire to this site and renovate the residence. However, the renovation would be limited to 30 percent of current value as a nonconforming use, per Article VII of the Unified Zoning Code.

The property is remote and inaccessible. It is located on the east side of Old Lawrence Road, the original main road, the original name for Broadway and the original alignment of U.S. Highway 81. However, this roadway was marginalized first by the construction of an overpass that realigned Highway 81 in the 1940s and later by the rerouting of Highway 81 onto the same alignment as I-135 approximately one-half mile to the east in the 1970s.

The property was zoned “F” Heavy Industry in 1958 as part of the three-mile extraterritorial jurisdiction zoning.

Today, the property along Old Lawrence Road includes outdoor storage type of uses suitable for the current GI zoning. The adjoining tract to the north is used for outdoor storage and is the only private property that lies within a 200-foot radius of the property. Other uses continuing to the north and east include landscape contractor storage, KFDI office and tower farm, other outdoor contractor storage uses and agricultural land. A railroad line is located west of Old Lawrence Road. The property to the south is the I-235 interchange.

**Analysis:** At the District VI Advisory Board meeting held December 1, 2008, the DAB voted (8-0) to approve. Questions were raised about whether the landowners would complain about the industrial neighbors in the future and if the applicant had explored other ways to accomplish their desired residential improvements without rezoning. No citizens were present to speak. At the MAPC meeting held December 4, 2008, the MAPC voted (12-0) to approve the request subject to removing the north and east five feet of the property from the zone change. MAPC raised concerns that otherwise the burden for screening and landscaping would shift to the industrial properties. No citizens spoke at the MAPC meeting.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality and Affordable Living.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC and approve the zone change, place the ordinance on first reading;  
or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

ORDINANCE NO. 48-158

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2008-00065

Zone change from GI General Industrial ("GI"), to SF-5 Single-Family Residential ("SF-5") on property described as:

Beginning at the center line of Old Lawrence Road 376 feet South of the North line of the Southwest Quarter of Section 28, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East 261 feet; thence South 142 feet; thence West 261 feet; thence North to beginning EXCEPT part taken in Condemnation Case A-72140 for Highway 81 By-Pass AND EXCEPT for the north five feet and the east five feet.

Generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, \_\_\_\_\_

\_\_\_\_\_  
Carl Brewer - Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney





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## INTEROFFICE MEMORANDUM

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**TO:** MAPC Members

**FROM:** Terri Dozal, Neighborhood Assistant, District 6

**SUBJECT:** **ZON2008-00065** City zone change from GI General Industrial to SF-5 Single- family Residential, generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road

**DATE:** December 2, 2008

On Monday, December 1, 2008 the District VI Advisory Board (DAB) considered a City zone change from GI General Industrial to SF-5 Single- family Residential, generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road (4118 N. Old Lawrence Road)

The members were provided the MAPD staff report for review prior to the meeting. *Donna Goltry*, Planner presented the case background and reviewed the staff recommendation with members and the public.

The Board asked the following questions:

- A few years down the road will the applicant complain about the surrounding properties.
- What percentage of limitage does the applicant want?
- Are there any plans for more industrial in this area?

No members of the public were present to speak for or against the request.

\*\*\*\***Action:** The DAB VI members made a motion to recommend to City Council Approval (8-0) of the request based on staff recommendations.

Please review this information when **ZON2008-00065** is considered.

mtd

## EXCERPT OF DECEMBER 4, 2008 MAPC HEARING

1. **Case No.: ZON2008-65** – Adolph E. and Rogene L. Moeckl, c/o Jackie Moeckl Request City zone change from GI General Industrial to SF-5 Single family-Residential on property described as:

Beginning at the center line of Old Lawrence Road 376 feet South of the North line of the Southwest Quarter of Section 28, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East 261 feet; thence South 142 feet; thence West 261 feet; thence North to beginning EXCEPT part taken in Condemnation Case A-72140 for Highway 81 By-Pass; generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road.

**BACKGROUND:** The applicant is requesting a zone change from GI General Industrial (“GI”) to SF-5 Single-Family Residential (“SF-5”), in order to make the zoning conform to its existing residential use, a single-family residence built in 1930. The applicant has indicated the wish to retire to this site and renovate the residence. However, the renovation would be limited to 30 percent of current value as a nonconforming use, per Article VII of the Unified Zoning Code.

The property is remote and inaccessible. It is located on the east side of Old Lawrence Road, the original main road, the original name for Broadway and the original alignment of U.S. Highway 81. However, this roadway was marginalized first by the construction of an overpass that realigned Highway 81 in the 1930s and later by the rerouting of Highway 81 onto the same alignment as I-135 approximately one-half mile to the east in the 1970s.

The property was zoned “F” Heavy Industry in 1958 as part of the three-mile extraterritorial jurisdiction zoning.

Today, the property along Old Lawrence Road includes outdoor storage type of uses suitable for the current GI zoning. The adjoining tract to the north is used for outdoor storage and is the only private property that lies within a 200-foot radius of the property. Other uses continuing to the north and east include landscape contractor storage, KFDI office and tower farm, other outdoor contractor storage uses and agricultural land. A railroad line is located west of Old Lawrence Road. The property to the south is the I-235 interchange.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	GI	Outdoor storage
SOUTH:	unzoned, GI	I-235, agriculture
EAST:	GI	Outdoor storage, agriculture
WEST:	RR, GI	Vacant

**PUBLIC SERVICES:** The subject property has frontage along Old Lawrence Road, a two-lane local street. Public water and sewer service are not available currently.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.” This designation does not conform to the zoning requested.

**RECOMMENDATION:** SF-5 zoning in the midst of GI zoning allows low intensity, residential use within an area reserved for high intensity, industrial uses. The purpose of prohibiting residential use is to protect the industrial areas from complaints about nuisances associated with industrial activities and processes. In this case the site is remote and major transportation corridors surround the property on the west (rail line) and south (I-235), so the change would create requirements for setbacks, buffering and screening only for the adjoining property on the north and east. This impact is relatively small and the residential use preceded the industrial zoning and use. It would allow reinvestment in a use in existence since 1930. Based upon these circumstances and the information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property along Old Lawrence Road includes outdoor storage type of uses suitable for the current GI zoning. The adjoining tract to the north is used for outdoor storage and is the only private property that lies within a 200-foot radius of the property. Other uses continuing to the north and east include landscape contractor storage, KFDI office and tower farm, other outdoor contractor storage uses and agricultural land. A railroad line is located west of Old Lawrence Road. The property to the south is I-235 interchange.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is suited for only certain GI type uses since municipal water and sewer services are unavailable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change would create requirements for setbacks, buffering and screening for the adjoining property on the north and east. The industrially-zoned areas could be subject to complaints about nuisances associated with industrial activities and processes. However, the residential use preceded the industrial zoning and use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.” This designation does not conform to the zoning requested.
5. Impact of the proposed development on community facilities: The impact would be unchanged.

**MARNELL** clarified that the surrounding property was all industrial and that this request for SF-5 Single-family Residential zoning will actually place a burden on the adjacent property owners for screening as opposed to putting the burden on the person making the zone change request.

**GOLTRY** commented that was correct; there was industrial zoned land to the north and east of the site. She added that the house probably preceded the industrial zoning.

**MARNELL** said that doesn’t seem right to him, to apply the burden to someone within the existing zoning. He asked about the possibility of leaving a 10-foot strip of GI on the north and east sides of the site.

**GOLTRY** commented that could be discussed with the applicant.

**HENTZEN** said he drove by and looked at this, and that there was no way this was a residential area. He asked why they were asking for residential zoning.

**GOLTRY** said the applicant wants to remodel and make improvements to the residence; and perhaps build on to the house. She said they would be limited to the amount of remodeling they can do under GI zoning because it is a non-conforming use.

**MARNELL** said he has no objection to the purpose of the request, only that it puts a burden on other people who are not involved in this case.

**HENTZEN** asked if there was any other way to give these people what they want without changing the zoning.

**JOE LANG, CHIEF DEPUTY CITY ATTORNEY** commented that Planning Staff may have other ideas for zoning that still allows residential but without the screening requirement. He said any zoning that has a less intensive impact than what was listed on the public hearing notice could be acceptable. He mentioned several zoning classifications.

**HILLMAN** asked if the applicant would accept LC Limited Commercial zoning that would still allow them to improve the property.

**JACKIE MOECKL, 2250 SOUTH OLIVER STREET, APT 212** daughter of the applicant said yes, they would be willing to do that, as long as they can do upgrades to the property.

**DENNIS** asked about the tax rate and mentioned the possibility that LC zoning might be taxed at a higher tax rate than SF-5 zoning.

**DIRECTOR SCHLEGEL** said he suspected that Mr. Dennis might be right about that.

**JOE LANG, CHIEF DEPUTY CITY ATTORNEY** mentioned that how the land was used as opposed to how it is zoned also affects the tax rate.

**MILLER** added that some zoning classifications may potentially prohibit the applicant from getting financing on the property.

**MARNELL** asked if the applicant would be willing to exclude the north and east 10 feet of the property from the SF-5 request.

**MOECKL** said she was not sure.

**GOLTRY** briefly explained the Commission's request to the applicant, stating that a sliver of GI zoning would be kept on the north and east sides of the property, 10-feet which would not be useful for building construction, but which would relieve the neighbors from the non-residential screening requirements.

**MOECKL** said that would be fine.

**JOHNSON** asked if the minimum was 10 feet, or could it be less, say maybe 5 feet.

**DONNA GOLTRY**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation; with the exception of the north and east 5 feet of the property.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (12-0).

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** ZON2008-00067 – City zone change from SF-5 Single-family Residential (“SF-5”) to LC General Commercial (“LC”) subject to a Protective Overlay; generally located north and east of South Meridian Avenue and I-235. (District IV)

**INITIATED BY:** Metropolitan Area Planning Department

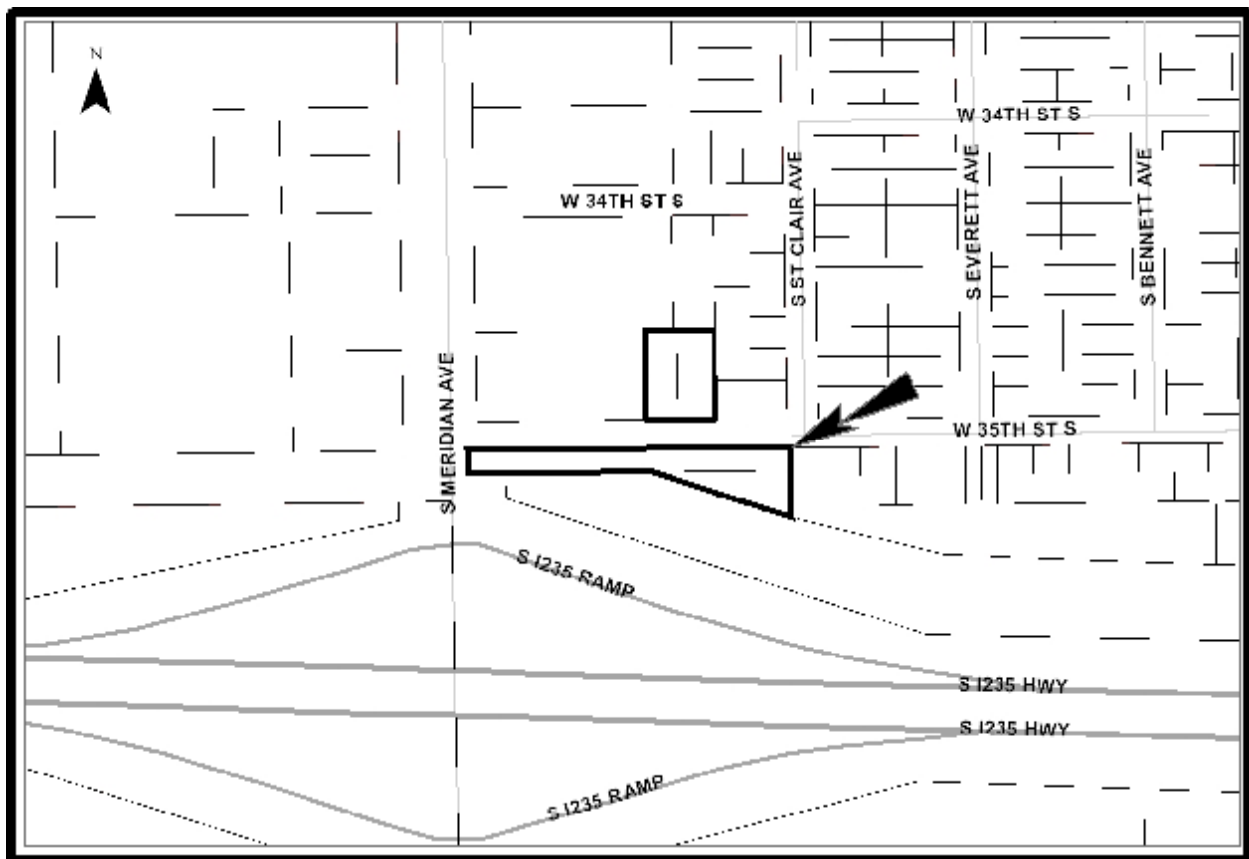
**AGENDA:** Planning (Consent)

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**DAB IV Recommendation:** Approve, subject to staff recommendations, (7-0)

**MAPC Recommendation:** Approve, subject to platting within one year and the provisions of Protective Overlay #227, (12-0)

**MAPD Staff Recommendation:** Approve, with Protective Overlay #227



**Background:** The applicant is requesting LC Limited Commercial (“LC”) zoning for the 1.43-acre unplatted SF-5 Single-family Residential (“SF-5”) zoned site. The site is currently undeveloped. The site is located directly north of I-235, on the east side of South Meridian Avenue. The requested LC zoning would allow the applicant to extend existing LC zoning from the north and to market the site for commercial development.

The applicant also owns the LC zoned property located directly west of the northern two lots included in this application. The property included in this rezone request is bisected by the existing 35<sup>th</sup> Street South right-of-way that is currently undeveloped. To bring the existing LC zoned, and the proposed zoned properties into one lot, the applicant would have to vacate the existing right-of-way by way of a vacation request or replatting of the property.

The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple of undeveloped parcels which may be occupied with future commercial development. Property to the south of the subject site consists of a drainage canal and I-235. Property north of the subject site is zoned LC and is currently undeveloped. The property abutting the east property line is zoned TF-3 Two-family Residential (“TF-3”) and SF-5 and is developed with single-family residences.

**Analysis:** At the DAB IV meeting held on December 3, 2008, the DAB voted (7-0) to recommend approval per planning staff recommendations, and with a protective overlay for the site to accommodate neighbors as much as possible. One citizen had concerns regarding increased traffic, and what effect would the proposed zone change have on property values and property taxes.

At the MAPC meeting held December 4, 2008, the MAPC voted (12-0) to recommend approval of the request for LC zoning subject to platting within one year, and the provisions of Protective Overlay #227 stated below. There was one citizen who spoke in opposition to the case.

1. One and one half time the landscape requirement shall be installed.
2. No order boards or queuing lanes can be located within 150 feet of the east property line.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC, approve the zone change subject to platting within one year and the provisions of Protective Overlay #227; and withhold publication of the ordinance until the plat has been recorded; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

ORDINANCE NO. 48-159

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2008-00067**

Zone change request from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") subject to Protective Overlay #227 on property described as:

Lot 1, Joseph E. Hall Addition, Wichita, Kansas, together with all of the 50 feet of street right-of-way for 35th Street South, lying south of and adjacent to said Lot 1 and Lots 6 and 7, Hatcher-Gomez Addition to Wichita, Kansas, together with all of the 50 feet of street right-of-way, lying south of said Lots 6, 7 and 8, in said Hatcher-Gomez Addition, Wichita, Kansas and together with the south 49.5 feet of the Northwest Quarter of Section 7, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying west of the west line of Lot 1, Schraft 3rd Addition, Wichita, Kansas and together with that part of the Southwest Quarter of Section 7, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying north of a line 130 feet north of and parallel with the north right-of-way line of I-235 Highway as condemned in Case A-76777 and lying west of the west line of Lot 1, Schraft 3rd Addition Wichita, Kansas; generally located north and east of south Meridian Avenue and I-235

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #227:**

1. One and one half time the landscape requirement.
2. No order boards or queuing lanes within 150 feet of the east property line.

**SECTION 2.** That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.**



**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



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## INTEROFFICE MEMORANDUM

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**TO:** Wichita City Council  
MAPC Members

**FROM:** Kelli Glassman, Neighborhood Assistant, District 4

**SUBJECT:** ZON2008-00067

**DATE:** December 4, 2008

On Wednesday, December 3, the District Advisory Board (DAB) for Council District 4 considered zone change from SF-5 Single-family Residential to LC Limited Commercial on property located north of I-235 and east of Meridian (2322, 2422 W. 35th St. South) and triangle shaped tract located south side of 35th, w. of 2239 w. 35th.

The Board members and citizens present had the following concerns:

- This development will create additional littering and traffic when there is already speeding issues.  
in the neighborhood (where there is more people, there are more issues.)
- This development will decrease surrounding residential property value and certain residences may have to be torn down for the new development.

The applicant was present and stated that the intent was to vacate this portion of 35<sup>th</sup> St. to alleviate as many of these concerns as possible.

The DAB Members were provided the public notice and MAPD staff comments for review.

**DAB members voted 7-0 to recommend approval of this request.**

Please review this information when this request is considered.

## EXCERPT OF DECEMBER 4, 2008 MAPC HEARING

**Case No.: ZON2008-67** – William G. Schraft (owner/applicant); Savoy Company, P.A., c/o Mark Savoy (agent) Request City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lot 1, Joseph E. Hall Addition, Wichita, Kansas, together with all of the 50 feet of street right-of-way for 35th Street South, lying south of and adjacent to said Lot 1 and Lots 6 and 7, Hatcher-Gomez Addition to Wichita, Kansas, together with all of the 50 feet of street right-of-way, lying south of said Lots 6, 7 and 8, in said Hatcher-Gomez Addition, Wichita, Kansas and together with the south 49.5 feet of the Northwest Quarter of Section 7, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying west of the west line of Lot 1, Schraft 3rd Addition, Wichita, Kansas and together with that part of the Southwest Quarter of Section 7, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying north of a line 130 feet north of and parallel with the north right-of-way line of I-235 Highway as condemned in Case A-76777 and lying west of the west line of Lot 1, Schraft 3rd Addition Wichita, Kansas; generally located North of I-235 and east of Meridian (2322, 2422 W. 35th St. South) and triangle shaped tract located on the south side of 35th Street South, west of 2239 W. 35th Street.

**BACKGROUND:** The applicant is requesting LC Limited Commercial (“LC”) zoning for the 1.43-acre unplatted SF-5 Single-family Residential (“SF-5”) zoned site. The site is currently undeveloped. The site is located directly north of I-235 on the west side of South Meridian Avenue. The requested LC zoning would allow the applicant to extend existing LC zoning from the north and to market the site for commercial development.

The applicant also owns the LC zoned property directly west of the northern two lots included in this application. This property included in this rezone request is bisected by the existing 35<sup>th</sup> Street South right-of-way that is currently undeveloped. To bring the properties together into one lot, the applicant would have to vacate the existing right-of-way with a vacation request or replatting of the property.

The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC, and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple undeveloped parcels which may be occupied with future commercial development. Property to the south of the subject site consists of a drainage canal and I-235. Property north of the subject site is zoned LC, and is currently undeveloped. The property abutting the east property line is zoned TF-3 Two-family Residential (“TF-3”) and SF-5, and is developed with single-family residences.

**CASE HISTORY:** The subject site is located in Lots 6 and 7 of the Hatcher-Gomez Addition, recorded on June 7, 1955, and the remaining area is currently unplatted.

### **ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Vacant
SOUTH:	I-235	Interstate
EAST:	SF-5 & TF-3	Residences
WEST:	LC	Fast Food Restaurant(s)

**PUBLIC SERVICES:** The site has access to South Meridian Avenue, a four-lane minor arterial, with 50 feet of half-street right-of-way. Average daily trips (ADT) along this section of Meridian Avenue are approximately 12,500 ADT. The site is also located directly north of I-235, a four-lane interstate

highway with approximately 37,400 ADT. Municipal sewer and water services and all other utilities are available.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential” type uses. The “urban residential” category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The requested LC zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and, on a limited presence basis, mini-storage warehousing and small scale light manufacturing. However, the subject site is bordered to the north and west, across Meridian Avenue, by properties categorized as “local commercial” on the land use guide, and commercial and industrial uses are common at major intersections.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for the LC Local Commercial (“LC”) zoning be APPROVED, subject to replatting within one year and to the following provisions of a Protective Overlay:

1. One and one half times the landscape requirement.
2. No order boards or queuing lanes within 150 feet of the east property line.

(Both recommendations match a previously approved PO directly north of the subject site.)

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC, and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple of undeveloped parcels which may be occupied with future commercial development. Property to the south of the subject site consists of a drainage canal and I-235. Property north of the subject site is zoned LC, and is currently undeveloped. The property abutting the east property line is zoned TF-3 and SF-5, and is developed with single-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed under the current zoning with single-family residences. However, this may not be a desirable single-family residential location due to proximity of high traffic volumes from Meridian Avenue and I-235, and the commercial uses located across Meridian Avenue from the subject site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Rezoning and commercial development could have negative effects on the single-family residence east of the application area. Existing codes would require compatibility setbacks, screening, landscaping, limit noise, and prohibit certain uses within 200 feet of residences.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential” type uses. The “urban residential” category encompasses areas that reflect the full diversity of residential development densities and types

typically found in a large urban municipality. The requested LC zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and, on a limited presence basis, mini-storage warehousing and small scale light manufacturing. However, the subject site is bordered to the north and west, across Meridian Avenue, by properties categorized as “local commercial” on the land use guide, and commercial and industrial uses are common at major intersections.

5. Impact of the proposed development on community facilities: Provided that drainage and traffic access policies are met, community facilities should not be impacted by the proposed development. Other usually provided municipal services are available or can be extended.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report. He said DAB IV voted 7-0 to recommend that the request be approved.

**FOSTER** asked about the restrictions on the property to the north.

**SLOCUM** said the staff recommended and the Commission approved increases in the landscape requirements and restrictions on order boards and queuing lanes for that property.

**MARK SAVOY, AGENT FOR THE APPLICANT** said they are in agreement with staff comments and added that they will be vacating 35<sup>th</sup> Street to eliminate traffic congestion.

**MCKAY** asked if the area was located in the floodplain.

**SAVOY** responded, yes, this area was located in a FEMA flood zone.

**URSULA ROBERTSON, 12216 W. 35<sup>th</sup> STREET, SOUTH** said she lives on the northeast corner of St. Clair and 35<sup>th</sup> Street, South. She said she doesn’t know how vacating the right-of-way concerns the amount of traffic. She mentioned current development in the area including a Wendy’s, Village Inn, Taco Bell, and Subway and said she understands that you can’t stop development and that some of it is good for the community. She mentioned that kids run across Meridian Street to the new YMCA and new Library and added that there was a crosswalk at 31<sup>st</sup> Street, but that kids won’t go that far to cross the Street. She also mentioned the new Fire Station and how all these features create more traffic in the area, which is a safety concern. She said her second concern was the floodplain issue and added that she has to have FEMA insurance for her mortgage. She said adding more buildings and elevated construction and the water run off and water drainage in the area are concerns for area homeowners. She said the County came out and removed a stand of old trees, which did make the drainage area wider; however, it is shallower. She said she is concerned about water drainage north and south since every street drains down to 35<sup>th</sup> Street and even if it only rains two inches, they have water in their driveway.

**SAVOY** explained that by vacating 35<sup>th</sup> Street, the street will not extend through the area. He said they will meet City of Wichita Code requirements for floodplain locations including any run off requirements. He said that is all part of the planning process and they are willing to meet those requirements.

## **TAPE 1, SIDE 2**

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **MITCHELL** seconded the motion, and it carried (12-0).

**City of Wichita**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council

**SUBJECT:** PUD2008-05 - Create PUD #28 East Boulevard Planned Unit Development; generally located north of 3rd Street North between Oliver Street and Bleckley Drive. (District II)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**MAPC Recommendations:** Approve, subject to staff recommendation (12-0).

**MAPD Staff Recommendations:** Approve, subject to conditions.

**DAB Recommendations:** Approve, subject to staff recommendation (8- 0).



**Background:** The applicant proposes to create PUD #28, the 1.58 acre East Boulevard Planned Unit Development. The “PUD” Planned Unit Development special zoning district would replace the current zoning district of B Multi-family Residential (“B”) on one parcel with all uses permitted in the LC Limited Commercial (“LC”) zoning district and the following uses prohibited: “group residence, limited,” “broadcast recording studio” and payday loans or similar businesses. Residential development would be limited to the density permitted by the B zoning district at 75 dwelling units per acre.

All lighting is to be shielded away from residential areas; trash receptacles and roof equipment require screening. Signs are to be in conformance with the City Sign Code for the LC district with no offsite, billboards, portable, rotating or flashing signs permitted. Landscaping is required per the Landscape Code, a pedestrian circulation system is required to connect buildings to public sidewalks and utilities are to be underground. Architectural design standards require consistent exterior building materials and colors with metal prohibited as a predominant exterior wall material. Building setbacks are 20 feet from all public streets; building heights are limited to 55 feet. Wireless communication facilities are subject to standards for the LC zoning district. Commercial gross floor ratio is limited to 30%, and the entire development is not to exceed 39,000 square feet of gross floor area.

The application area is located north of 3<sup>rd</sup> Street North, between Oliver and Bleckley. North of the site is a platted alley, an LC zoned office building, and LC zoned commercial uses – including a vacant grocery store at the intersection of Oliver and Central. South of the site is a B zoned middle school. East of the site, across Bleckley, are MF-29 Multi-family Residential (“MF-29”) zoned duplexes. West of the site, across Oliver, are TF-3 Two-family Residential (“TF-3”) zoned single-family residences.

**Analysis:** District II Advisory Board heard this request on December 3, 2008. DAB II voted (8-0) to approve the request as recommended by planning staff. No citizens spoke on this request at the DAB hearing.

At the MAPC meeting on December 4, 2008, the MAPC voted (12-0) to recommend approval of the PUD subject to staff recommendations, and the minor modification of reducing the height of parking lot lighting to 15 feet, including the base or pedestal. No citizens spoke on this request at the MAPC hearing. The MAPC recommendation was to APPROVE subject to the following conditions:

1. Amend 3 to include the following prohibited uses: drive-through service, convenience stores, car washes, and pawnshops.
2. Amend 7 to limit parking lot lighting to 15 feet in height, including the light base.
3. Add 26 to require dedication of access control to public streets, except for two access points along Oliver, and one access point from Bleckley, and complete access control to 3<sup>rd</sup> Street.
4. Add 27 to require a guarantee for a public sidewalk along Bleckley.
5. The dedications and guarantees shall be completed prior to the issuance of building permits or within one year following approval by the governing body, whichever comes first; or the case shall be considered denied and closed.
6. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

No protests have been received.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality and Affordable Living.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC and approve the PUD #28 East Boulevard Planned Unit Development subject to conditions and dedications being met within one year; instruct the City Clerk to withhold publication of the ordinance until the conditions have been met and the dedications have been recorded; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)



AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. PUD2008-05

Request for zone change from "B" Multi-family Residential "PUD #28" Planned Unit Development on property described as:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 11 and 12, Block 1, East Boulevard Addition to Wichita, Kansas, Sedgwick County, Kansas.

Generally located north of 3<sup>rd</sup> Street North and east of Oliver.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, \_\_\_\_\_

\_\_\_\_\_  
Carl Brewer - Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney





**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC Members  
**FROM:** Antione Sherfield, Neighborhood Assistant, District II  
**SUBJECT:** PUD2008-05: Creation of a Planned Unit Development  
**DATE:** December 3, 2008

On Monday, December 1, 2008 the District II Advisory Board considered the request to create a Planned Unit Development located North of 3<sup>rd</sup> Street North and East of Oliver.

The applicant proposes to create PUD #28, the 1.58 acre East Boulevard Planned Unit Development. The "PUD" Planned Unit Development special zoning district would replace the current zoning district of B Multi-family Residential ("B") on one parcel with all uses permitted in the LC Limited Commercial ("LC") zoning district and the following uses prohibited: group residence, limited; broadcast recording studio; and payday loans or similar businesses. Residential development would be limited to the density permitted by the B zoning district at 75 dwelling units per acre.

All lighting is to be shielded away from residential areas; trash receptacles and roof equipment require screening. Signs are to be in conformance with the City Sign Code for the LC district with no offsite, billboards, portable, rotating or flashing signs permitted. Landscaping is required per the Landscape Code, a pedestrian circulation system is required to connect buildings to public sidewalks, and utilities are to be underground. Architectural design standards require consistent exterior building materials and colors with metal prohibited as a predominant exterior wall material. Building setbacks are 20 feet from all public streets; building heights are limited to 55 feet. Wireless communication facilities are subject to standards for the LC zoning district. Commercial gross floor ratio is limited to 30%, and the entire development is not to exceed 39,000 square feet of gross floor area.

The application area exists north of 3<sup>rd</sup> Street North, between Oliver and Bleckley. North of the site is a platted alley, an LC zoned office building, and LC zoned commercial uses – including a vacant grocery store at the intersection of Oliver and Central. South of the site is a B zoned middle school. East of the site, across Bleckley, are MF-29 Multi-family Residential ("MF-29") zoned duplexes. West of the site, across Oliver, are TF-3 Two-family Residential ("TF-3") zoned single-family residences.

**CASE HISTORY:** The property was platted as Lots 1-12 of the East Boulevard Addition in 1930. The property is currently developed with 26 dwelling units within two, three, and four-unit buildings, all built between 1937 and 1941.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Office, commercial
SOUTH:	B	Middle school
EAST:	MF-29	Two-family residences
WEST:	TF-3	Single-family residences

**Recommended Action:** The **DAB** voted **(8-0)** to approve the Planning Departments recommendation subject to the following conditions.

1. Amend 3 to include the following prohibited uses: drive-through service, convenience stores, car washes, and pawnshops.
2. Amend 7 to limit parking lot lighting to 20 feet in height.
3. Add 26 to require dedication of access control to public streets, except for two access points along Oliver, and one access point from Bleckley, and complete access control to 3<sup>rd</sup> Street.
4. Add 27 to require a guarantee for a public sidewalk along Bleckley.
5. The dedications and guarantees shall be completed prior to the issuance of building permits or within one year following approval by the governing body, whichever comes first; or the case shall be considered denied and closed.
6. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Antione Sherfield  
Neighborhood Assistant – District II

## EXCERPT OF DECEMBER 4, 2008 MAPC HEARING

**Case No.: PUD2008-05** – Michael Farha (owner); Poe & Associates Engineering, c/o Tim Austin (agent) Request Create PUD #28 East Boulevard Planned Unit Development on property described as:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 11 and 12, Block 1, East Boulevard Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located north of 3rd Street North between Oliver Street and Bleckley Drive.

**BACKGROUND:** The applicant proposes to create PUD #28, the 1.58 acre East Boulevard Planned Unit Development. The “PUD” Planned Unit Development special zoning district would replace the current zoning district of B Multi-family Residential (“B”) on one parcel with all uses permitted in the LC Limited Commercial (“LC”) zoning district and the following uses prohibited: group residence, limited; broadcast recording studio; and payday loans or similar businesses. Residential development would be limited to the density permitted by the B zoning district at 75 dwelling units per acre.

All lighting is to be shielded away from residential areas; trash receptacles and roof equipment require screening. Signs are to be in conformance with the City Sign Code for the LC district with no offsite, billboards, portable, rotating or flashing signs permitted. Landscaping is required per the Landscape Code, a pedestrian circulation system is required to connect buildings to public sidewalks, and utilities are to be underground. Architectural design standards require consistent exterior building materials and colors with metal prohibited as a predominant exterior wall material. Building setbacks are 20 feet from all public streets; building heights are limited to 55 feet. Wireless communication facilities are subject to standards for the LC zoning district. Commercial gross floor ratio is limited to 30%, and the entire development is not to exceed 39,000 square feet of gross floor area.

The application area exists north of 3<sup>rd</sup> Street North, between Oliver and Bleckley. North of the site is a platted alley, an LC zoned office building, and LC zoned commercial uses – including a vacant grocery store at the intersection of Oliver and Central. South of the site is a B zoned middle school. East of the site, across Bleckley, are MF-29 Multi-family Residential (“MF-29”) zoned duplexes. West of the site, across Oliver, are TF-3 Two-family Residential (“TF-3”) zoned single-family residences.

**CASE HISTORY:** The property was platted as Lots 1-12 of the East Boulevard Addition in 1930. The property is currently developed with 26 dwelling units within two, three, and four-unit buildings, all built between 1937 and 1941.

### **ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Office, commercial
SOUTH:	B	Middle school
EAST:	MF-29	Two-family residences
WEST:	TF-3	Single-family residences

**PUBLIC SERVICES:** Oliver is a four-lane section line arterial street with a 70-foot right-of-way (ROW), and a daily traffic count of 16,420. 3<sup>rd</sup> Street North is a local street with a 60-foot ROW; Bleckley is also a local street with an 80-foot ROW, Bleckley is a one-way street south of 3<sup>rd</sup>, behind Robinson Middle School, for the purpose of increased school bus loading safety. All municipal services are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as Urban Residential, with Local Commercial identified immediately to the north.

The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD addresses these criteria by permitting a mixture of commercial and residential uses. The PUD also incorporates provisions such as architectural standards and pedestrian circulation requirements that enhance the quality of the proposed development.

**RECOMMENDATION:** The Unified Zoning Code indicates that the PUD is a special purpose zoning district that is intended to encourage innovative land use planning and design by allowing some flexibility with base development standards while promoting quality urban design. Ideally the proposed PUD would incorporate the commercial development to the north and northeast of this site, in order to consolidate parking, circulation, signage, and design issues within the entire commercial development at the southeast corner of Oliver and Central. There is also a need to protect the school to the south from excessive traffic by prohibiting access to this site from 3<sup>rd</sup> Street, and prohibiting the highest traffic generating land uses of drive-through service and convenience stores. There is also a need to protect the remaining residences located along the east side of Bleckley Drive. Based on these comments and information available prior to the public hearing, staff recommends the application be APPROVED subject to the following conditions:

1. Amend 3 to include the following prohibited uses: drive-through service, convenience stores, car washes, and pawnshops.
2. Amend 7 to limit parking lot lighting to 20 feet in height.
3. Add 26 to require dedication of access control to public streets, except for two access points along Oliver, and one access point from Bleckley, and complete access control to 3<sup>rd</sup> Street.
4. Add 27 to require a guarantee for a public sidewalk along Bleckley.
5. The dedications and guarantees shall be completed prior to the issuance of building permits or within one year following approval by the governing body, whichever comes first; or the case shall be considered denied and closed.
6. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is a platted alley, an LC zoned office building, and LC zoned commercial uses – including a vacant grocery store at the intersection of Oliver and Central. South of the site is a B zoned middle school. East of the site, across Bleckley, are MF-29 zoned duplexes. West of the site, across Oliver, are TF-3 zoned single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for multi-family residential as it is currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the requested PUD could affect nearby property with increased traffic, activity, noise and light. The proposed PUD should mitigate these effects better than typical zoning code standards under a commercial zoning category.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identify the site as Urban Residential, with Local Commercial identified immediately to the north. The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code.
5. Impact of the proposed development on community facilities: The proposed development could generate more traffic on surrounding streets than the current residential development. Limiting vehicular access from 3<sup>rd</sup> Street, prohibiting the high-traffic generating uses of drive-through service and convenience stores, and providing pedestrian access should mitigate an increase in traffic and associated safety concerns.

**MARNELL** said he thought another nearby case had set a parking lot light standard of 15 feet including the pedestal and that there seemed to be an inconsistency in this application.

**MCNEELY** commented that may be an oversight, but the other case has different factors.

**MILLER** clarified that the other case nearby has a standard of 15 feet including the pedestal through a Protective Overlay.

**MCNEELY** said the applicant is agreeable to that change.

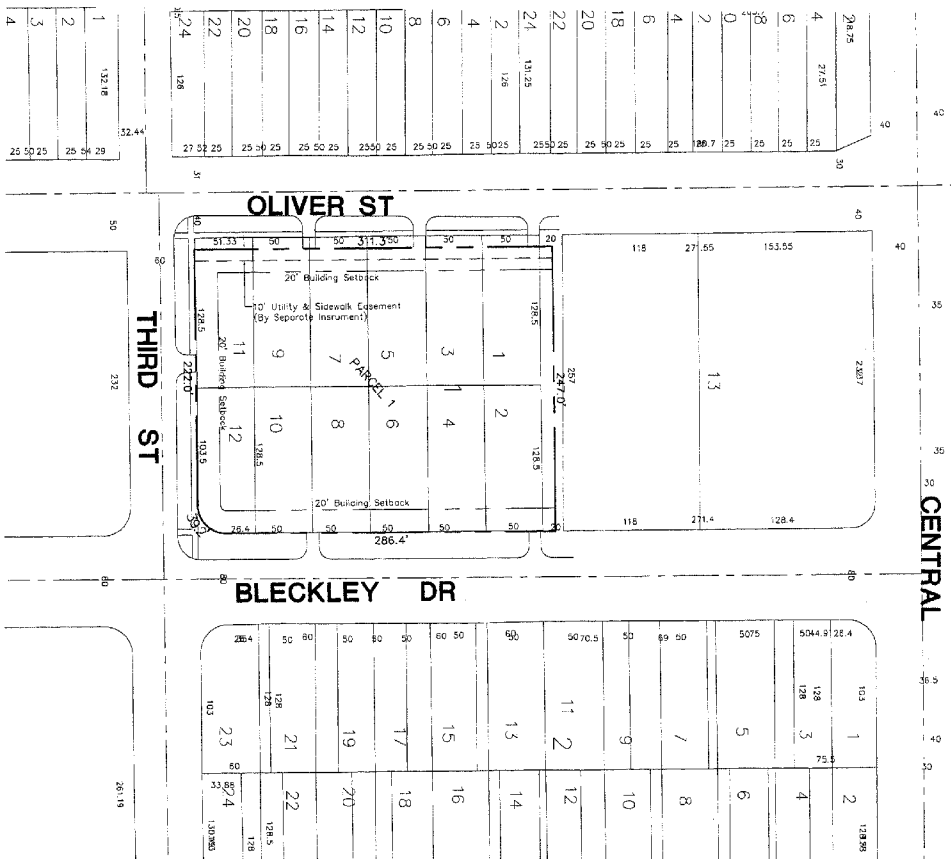
**FOSTER** mentioned a building height of 55 feet.

**MCNEELY** commented that was discussed at the DAB meeting.

**JESS MCNEELY**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation, with the parking lot lights at 15 feet, including the pedestal.

**MCKAY** moved, **JOHNSON** seconded the motion, and it carried (12-0).



GENERAL NOTES

- [illegible]

# EAST BOULEVARD

## PLANNED UNIT DEVELOPMENT (PUD-XX)

DATE OF PREPARATION 9/29/05



**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** SUB 2008-25 -- Plat of First Pentecostal Church Addition located on the southeast corner of MacArthur and Hydraulic. (District III)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning (Consent)

---

**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (12-0)

**Background:** This site, consisting of four lots on 24.21 acres, is a replat of Pentecostal 2<sup>nd</sup> Addition and Ed Dwire Addition, and also includes the adjoining unplatted property. The site is located within Wichita's city limits. The site has been approved for two zone changes: 1) ZON 2007-48 from SF-5 Single-family Residential to LC Limited Commercial (Lots 2 and 3), and 2) ZON 2007-49 from SF-5 Single-family Residential to GO General Office (Lot 4 and Reserve A). Protective Overlay #196 addressing signage, lighting and permitted uses, and Protective Overlay #197 addressing permitted uses, lighting and signs have also been approved. Protective Overlay Certificates have been submitted.

**Analysis:** Water and sewer services are available for Lots 1 and 2; Lots 3 and 4 have access to water only. A Petition (100 percent) and a Certificate of Petition have been submitted for sewer improvements for Lots 3 and 4. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the proposed reserves being platted for drainage purposes. A Grant of Joint Access Easement for ingress and egress between Lots 2 and 3 and between Lots 1 and 4 have been submitted. A Driveway Closure Certificate has been submitted to guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.

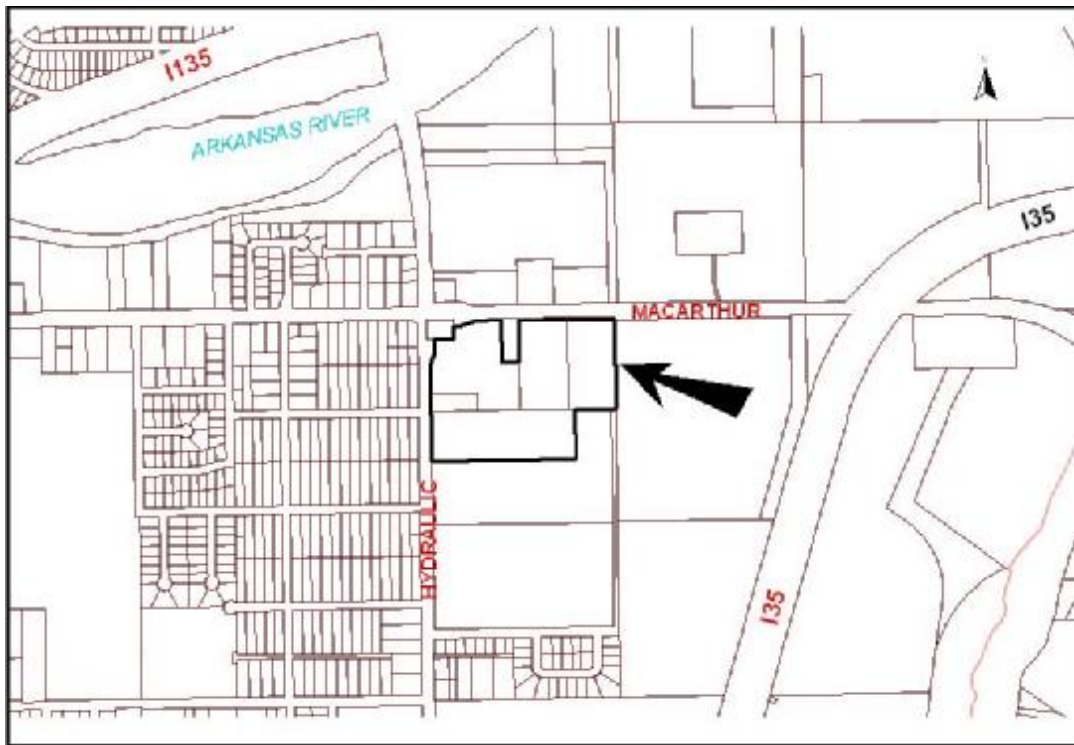
The plat has been approved by the Metropolitan Area Planning Commission. Publication of the Ordinances should be withheld until the plat is recorded with the Register of Deeds.

**Financial Consideration:** None.

**Goal Impact:** Ensure Efficient Infrastructure.

**Legal Considerations:** The Protective Overlay Certificates, Certificate of Petition, Restrictive Covenant, Grant of Joint Access Easement and Driveway Closure Certificate will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the documents and plat, authorize the necessary signatures, adopt the Resolutions and approve first reading of the Ordinances.



First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-007

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 530, SOUTHWEST INTERCEPTOR SEWER (SOUTH OF MACARTHUR, EAST OF HYDRAULIC) 468-84567 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 530, SOUTHWEST INTERCEPTOR SEWER (SOUTH OF MACARTHUR, EAST OF HYDRAULIC) 468-84567 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 530, Southwest Interceptor Sewer (south of MacArthur, east of Hydraulic) 468-84567.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Twenty-Five Thousand Dollars (\$25,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after December 1, 2008 exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

FIRST PENTECOSTAL CHURCH ADDITION

Lots 3 and 4, Block A

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis:

That the method of assessment of all costs of the improvement for which the improvement district shall be liable on a fractional basis: Lots 3 and 4, Block A, FIRST PENTECOSTAL CHURCH ADDITION shall each pay ½ of the total cost of the improvements.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment

Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

Published in The Wichita Eagle on \_\_\_\_\_

**ORDINANCE NO. 48-161**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

**BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.**

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON 2007-48**

Zone change request from SF-5 Single-family Residential to LC Limited Commercial and to PO #196 - Protective Overlay District, on property described as:

Lots 2 and 3, Block A, First Pentecostal Church Addition.

Generally located on the southeast corner of MacArthur and Hydraulic.

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #196:**

1. Prohibited uses on the site include limited and general correctional placement residences, private and public recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, and asphalt or concrete plant, limited and general, recreational vehicle campground, tavern and drinking establishment and pawn shop.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, and shall not face to the north. No pole lights shall be located within the required setbacks.
3. Flashing signs, (including signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights, electronic or video message boards or signs which create illusions of movement are not permitted.
4. Portable and off-site signs are not permitted.
5. All freestanding signs must be monument type, shall have a maximum height of 16 feet and shall be oriented perpendicular to MacArthur Road.
6. The subject property shall be limited to a total of three signs.
7. Any use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.

**SECTION 2.** That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

Published in The Wichita Eagle on \_\_\_\_\_

**ORDINANCE NO. 48-162**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

**BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.**

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON 2007-49**

Zone change request from SF-5 Single-family Residential to GO General Office and to PO #197 - Protective Overlay District, on property described as:

Lot 4 and Reserve A, First Pentecostal Church Addition.

Generally located on the southeast corner of MacArthur and Hydraulic.

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #197:**

1. Prohibited uses on the site include limited and general correctional placement residences, private recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, and asphalt or concrete plant, limited.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, and shall not face to the north. No pole lights shall be located within the required setbacks.
3. Flashing signs (including signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights, electronic or video message boards or signs which create illusions of movement are not permitted.
4. Portable and off-site signs are not permitted.
5. All freestanding signs must be monument type, shall have a maximum height of 16 feet.
6. Any use of back-lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

**SECTION 2.** That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.**

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



### NOTICE OF PROTECTIVE OVERLAY

THIS NOTICE made this 16<sup>th</sup> day of December, 2008, by First Pentecostal Church, a Kansas Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, hereinafter called "Declarant,"

WITNESSETH

WHEREAS, Declarant is the owner of the following-described property:

Lots 2 and 3, Block A,  
**FIRST PENTECOSTAL CHURCH ADDITION,**  
Wichita, Sedgwick County, Kansas

and

WHEREAS, Declarant is desirous to file notice that a zoning protective overlay approved by the Wichita City Council is on file with the Wichita-Sedgwick County Metropolitan Area Planning Department, located on the 10th Floor, City Hall, Wichita, Kansas, (316) 268-4421.

NOW, THEREFORE, the Declarant gives notice that the approved protective overlay (P-O #196) per zone change case ZON2007-48 has placed restrictions on the use and requirements of the development of the above-described real property. This protective overlay shall be binding on the owners, their heirs, or successors or assigns and is a document running with the land and is binding on all successors in title to Lots 2 and 3, Block A, First Pentecostal Church Addition.

EXECUTED the day and year first written above.

First Pentecostal Church a/k/a  
First United Pentecostal Church, Inc.,  
a/k/a First Pentecostal Church, Inc.  
a/k/a First United Pentecostal Church

By: Jessie M. Cornwell  
Jessie M. Cornwell, President

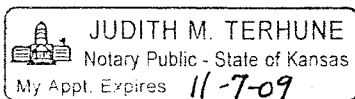
STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )    SS:

BE IT REMEMBERED, that on this 16<sup>th</sup> day of December, 2008,  
before me, the undersigned, a Notary Public, in and for the County and State  
aforesaid, came Jessie M. Cornwell as President of First Pentecostal Church, a Kansas  
Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal  
Church, Inc., a/k/a First United Pentecostal Church, personally known to me to be  
the same persons who executed the within instrument of writing and such persons  
duly acknowledged the execution of the same on behalf, and as the act and deed of  
said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official  
seal the day and year above written.

Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-09)



### NOTICE OF PROTECTIVE OVERLAY

THIS NOTICE made this 16<sup>th</sup> day of December, 2008, by First Pentecostal Church, a Kansas Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, hereinafter called "Declarant,"

WITNESSETH

WHEREAS, Declarant is the owner of the following-described property:

Lot 4, Block A,  
**FIRST PENTECOSTAL CHURCH ADDITION,**  
Wichita, Sedgwick County, Kansas

and

WHEREAS, Declarant is desirous to file notice that a zoning protective overlay approved by the Wichita City Council is on file with the Wichita-Sedgwick County Metropolitan Area Planning Department, located on the 10th Floor, City Hall, Wichita, Kansas, (316) 268-4421.

NOW, THEREFORE, the Declarant gives notice that the approved protective overlay (P-O #197) per zone change case ZON2007-49 has placed restrictions on the use and requirements of the development of the above-described real property. This protective overlay shall be binding on the owners, their heirs, or successors or assigns and is a document running with the land and is binding on all successors in title to Lot 4, Block A, First Pentecostal Church Addition.

EXECUTED the day and year first written above.

First Pentecostal Church a/k/a  
First United Pentecostal Church, Inc.  
a/k/a First Pentecostal Church, Inc.  
a/k/a First United Pentecostal Church

By: Jessie M. Cornwell  
Jessie M. Cornwell, President

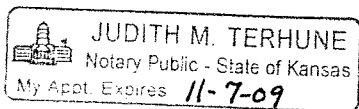
STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )    SS:

BE IT REMEMBERED, that on this 16<sup>th</sup> day of December, 2008, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jessie M. Cornwell as President of First Pentecostal Church, a Kansas Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-09)



**CERTIFICATE OF PETITION**

STATE OF KANSAS                     )  
COUNTY OF SEDGWICK    )   SS:

We, First Pentecostal Church, a Kansas Corporation a/k/a First United Pentecostal Church, Inc. a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, owners of FIRST PENTECOSTAL CHURCH ADDITION, Wichita, Sedgwick County, Kansas, do hereby certify that petition(s) for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Sanitary Sewer Improvements

As a result of the above-mentioned petition(s) for improvements, all lots or portions thereof within First Pentecostal Church Addition, may be subject to special assessments assessed thereto for the cost of constructing the above-described improvements.

Signed this 16<sup>th</sup> day of December, 2008.

First Pentecostal Church, a/k/a  
First United Pentecostal Church, Inc.  
a/k/a First Pentecostal Church, Inc.  
a/k/a First United Pentecostal Church

By: Jessie M. Cornwell  
Jessie M. Cornwell, President

Certificate of Petition  
Page 2 of 2

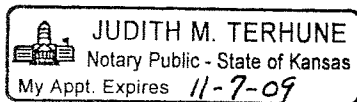
STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )       SS:

BE IT REMEMBERED, that on this 16<sup>th</sup> day of December, 2008,  
before me, the undersigned, a Notary Public, in and for the County and State  
aforesaid, came Jessie M. Cornwell as President of First Pentecostal Church, a Kansas  
Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal  
Church, Inc., a/k/a First United Pentecostal Church, personally known to me to be  
the same persons who executed the within instrument of writing and such persons  
duly acknowledged the execution of the same on behalf, and as the act and deed of  
said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official  
seal the day and year above written.

Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-09)



### **RESTRICTIVE COVENANT**

THIS DECLARATION made this 16<sup>th</sup> day of December, 2008, by First Pentecostal Church, a Kansas Corporation a/k/a First United Pentecostal Church, Inc. a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

### **FIRST PENTECOSTAL CHURCH ADDITION**

Lots 1 through 4, Block A

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. That Reserve "A" is hereby reserved for open space, landscaping, lakes, drainage purposes, and utilities as confined to easements.

Reserve "A" shall be owned and maintained by the lot owners association for the addition.

2. That a Lot Owner's Association shall be formed and incorporated as a non-profit corporation under Kansas Statutes at the Declarant's sole cost. Reserve "A" as designated on the plat of First Pentecostal Church Addition shall be deeded to the Lot Owner's Association upon its incorporation or within 30 days thereafter.

3. That the declaration of covenants and other provisions of the Lot Owner's Association being formed shall provide specific pertinent language requiring that the Lot Owner's Association shall include the first or any other subsequent phase or phases for the maintenance of any and all common areas contiguous to Reserve "A", First Pentecostal Church Addition, under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserve, as defined, for the purposes of maintaining such Reserves. This easement is conditioned upon the following event or events happening:

A. That the Declarant, the Lot Owner's Association, or as may be appropriate, has failed to maintain the reserves in a reasonable and prudent manner,

and,

B. That the appropriate governing body has given written notice to the Declarants or the Lot Owner's Association, and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserves under this covenant, the Declarant or respective Lot Owner's Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against Lots 1 through 4, Block A, in First Pentecostal Church Addition, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots 1 through 4, Block A, in FIRST PENTECOSTAL CHURCH ADDITION, Wichita, Sedgwick County, Kansas.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first written.

First Pentecostal Church, a/k/a  
First United Pentecostal Church, Inc.  
a/k/a First Pentecostal Church, Inc.  
a/k/a First United Pentecostal Church

By:   
Jessie M. Cornwell, President



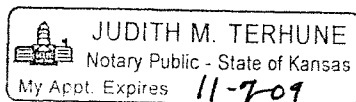
STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )    SS:

BE IT REMEMBERED, that on this 16<sup>th</sup> day of December, 2008, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jessie M. Cornwell as President of First Pentecostal Church, a Kansas Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-09 )



### **GRANT OF JOINT ACCESS EASEMENT**

WHEREAS, the undersigned is the owner of the real property hereinafter described:

Lots 1 through 4, Block A,  
First Pentecostal Church Addition,  
Wichita, Sedgwick County, Kansas

and

WHEREAS, the plat of First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas, has provisions for access control on MacArthur Rd. for Lots 2 and 3, Block A, and therefore requires mutual and joint access easement for ingress and egress purposes between Lots 2 and 3, Block A, First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas,

and,

WHEREAS, the plat of First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas, has provisions for access control on Hydraulic Ave. for Lots 1 and 4, Block A, and therefore requires mutual and joint access easement for ingress and egress purposes between Lots 1 and 4, Block A, First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas,

and,

WHEREAS it is determined that it is in the best interests of the parties and their successors and assigns that certain common easements, as hereinafter described, be established and conveyed for the use and benefit of all the parties hereto, their successors, assigns, and licensees.

NOW, THEREFORE, be it known that the undersigned does hereby grant and convey for itself, its successors, grantees, licensees and assignees in interest, the right to use for ingress and egress the joint access easements as are hereinafter setforth.

Grant of Joint Access Easement  
Page 2 of 3

Joint access easement between Lots 2 and 3, Block A, First Pentecostal Church Addition, for ingress and egress to MacArthur Rd., over and across the following real estate:

The east 15.00 feet of the north 52.00 feet of Lot 2, Block A, First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas, TOGETHER with the west 15.00 feet of the north 52.00 feet of Lot 3 in said Block A.

and

Joint access easement between Lots 1 and 4, Block A, First Pentecostal Church Addition, for ingress and egress to Hydraulic Ave., over and across the following real estate:

The south 15.00 feet of the west 52.00 feet of Lot 1, Block A, First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas, TOGETHER with the north 15.00 feet of the west 52.00 feet of Lot 4, in said Block A.

It is agreed by and between the parties hereto that such easements shall be perpetual easements until and unless amended, revoked, or released by all of the parties in interest or their successors or assigns and that the same shall be a covenant running with the land and shall be binding upon the grantors herein, their grantees, their heirs, assigns, licensees, successors, and assignees in interest.

It is further contracted and covenanted that such easements shall be for driveway, ingress, and egress purposes and such easements shall not be used for parking purposes or utilized in any manner so as to impede or inconvenience the use of such easement for the purposes herein setforth. Maintenance of said easements shall be in the mutual interests and responsibilities to all party's interest and their successors, heirs, and/or assigns.

In testimony whereof the undersigned has set their hands this 16<sup>th</sup> day of December, 2008.

First Pentecostal Church a/k/a  
First United Pentecostal Church, Inc.  
a/k/a First Pentecostal Church, Inc.  
a/k/a First United Pentecostal Church

By: Jessie M. Cornwell  
Jessie M. Cornwell, President

Grant of Joint Access Easement  
Page 3 of 3

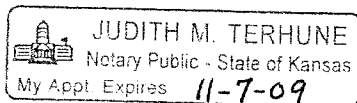
STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )       SS:

BE IT REMEMBERED, that on this 16<sup>th</sup> day of December, 2008, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jessie M. Cornwell as President of First Pentecostal Church, a Kansas Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-09 )



# DRIVE APPROACH CLOSURE CERTIFICATE

SEDGWICK COUNTY                   )  
STATE OF KANSAS                 )      ss:

First Pentecostal Church, a Kansas Corporation, a/k/a a First United Pentecostal Church, Inc., a/k/a a First Pentecostal Church, Inc., a/k/a a First United Pentecostal Church, owner(s) of that certain real property to be known as Lots 1 through 4, Block A, First Pentecostal Church Addition, Wichita, Sedgwick County, Kansas, is in the process of platting said property, and does hereby acknowledge that in accordance with the requirements of the platting process as set forth by the City of Wichita, any existing drive approaches on Hydraulic Ave. in excess of the two allowed per said platting requirements shall be closed.

This is to place on notice the owner(s) of the above-described property and subsequent owners thereof that, as a result of the above-cited platting requirements, said owner and subsequent owners thereof are responsible for seeing that such drive approach or approaches are removed and closed per City of Wichita specifications for such work, and that sufficient guaranty of such closure(s), in a form acceptable to the City of Wichita (e.g. – bond, cash, letter of credit, etc.) and/or acknowledgement that the City of Wichita may withhold the issuance of an occupancy permit for any future building construction, will be a pre-condition of the issuance of any future building permit for all development on the above-described property.

Signed this 16<sup>th</sup> day of December, 2008.

First Pentecostal Church, a/k/a  
First United Pentecostal Church, Inc.  
a/k/a First Pentecostal Church, Inc.  
a/k/a First United Pentecostal Church

By: Jessie M. Cornwell  
Jessie M. Cornwell

Drive Approach Closure Certificate  
Page 2 of 2

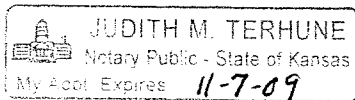
STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )       SS:

BE IT REMEMBERED, that on this 16<sup>th</sup> day of December, 2008, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jessie M. Cornwell as President of First Pentecostal Church, a Kansas Corporation, a/k/a First United Pentecostal Church, Inc., a/k/a First Pentecostal Church, Inc., a/k/a First United Pentecostal Church, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-09 )



**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** SUB 2008-61 -- Plat of Gary Garrett Addition, east of Meridian and north of 45<sup>th</sup> Street North. (District VI)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning (Consent)

---

**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (13-0)

**Background:** This site, consisting of one lot on 3.57 acres, is located within Wichita's city limits and is zoned SF-5 Single-family Residential.

**Analysis:** Water services are available. A Petition, 100 percent, and a Certificate of Petition have been submitted for future sewer improvements. City Environmental Services has approved the use of on-site sewerage facilities.

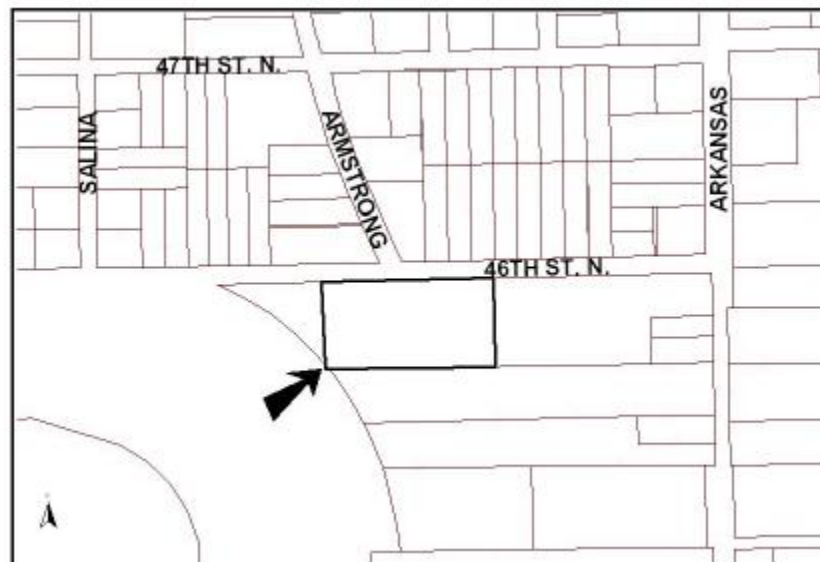
The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions.

**Financial Considerations:** None.

**Goal Impact:** Ensure Efficient Infrastructure.

**Legal Considerations:** The Certificate of Petition will be recorded with the Register of Deeds.

**Recommendations/Actions:** Approve the document and plat, authorize the necessary signatures and adopt the Resolution.







First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-008

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF MAIN 17, SANITARY SEWER NO. 23 (EAST OF MERIDIAN, NORTH OF 45TH ST. NORTH) 468-84563 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF MAIN 17, SANITARY SEWER NO. 23 (EAST OF MERIDIAN, NORTH OF 45TH ST. NORTH) 468-84563 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Main 17, Sanitary Sewer No. 23 (east of Meridian, north of 45th St. North) 468-84563.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Eighteen Thousand Dollars (\$18,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after December 1, 2008, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

GARY GARRETT ADDITION

Lot 1, Block A

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

That the method of assessment of all costs of the improvements for which the improvement district shall be liable shall be on a fractional basis: The owner of Lot 1, Block A, GARY GARRETT ADDITION shall pay the total cost payable by the improvement district.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6 That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of

cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

RECEIVED

CERTIFICATE

DEC 0 '08

CITY CLERK OFFICE

CITY OF WICHITA )  
COUNTY OF SEDGWICK ) SS  
STATE OF KANSAS )

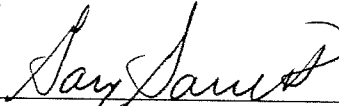
I, Gary W. Garrett is(are) the owner(s) of Gary Garrett Addition, do hereby certify that the petition(s) for the following improvement(s) have/has been submitted to the City Council of the City of Wichita, Kansas:

LIST NAME OF PROJECTS

1. Sanitary Sewer Improvements
- 2.

As a result of the above-mentioned petitions for improvements, lots or portions thereof within Gary Garrett Addition may be subject to special assessments thereto for the const of constructing the above described improvements.


Signed this 11 day of 26, 2008.

  
\_\_\_\_\_  
Gary W. Garrett, Owner

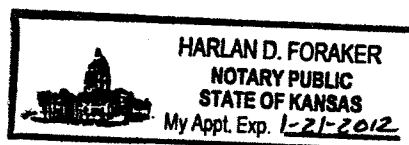
CITY OF WICHITA )  
COUNTY OF SEDGWICK ) SS  
STATE OF KANSAS )

Personally appeared before me a notary public in and for the County and State aforesaid came Gary Garrett, Owner to me personally known to be the same person who executed the forgoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Wichita, Sedgwick County, Kansas, this 26TH day of November, 2008.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 1-21-2012



**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** DED 2008-12 - Dedication of a Drainage Easement located on the southwest corner of Harry Street and Hoover Avenue. (District IV)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning (Consent)

---

**Staff Recommendation:** Accept the Dedication and Acknowledgement Document.

**Background:** This Dedication is associated with Lot Split Case No. SUB 2008-89 (Airport Industrial Park Addition). The Dedication is for construction and maintenance of a drainage easement. An Acknowledgement Document for a main sewer extension has also been submitted.

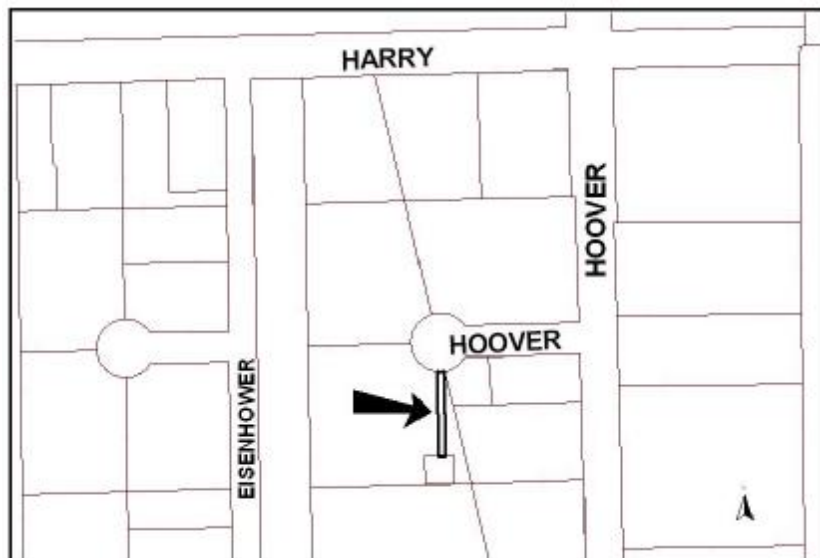
**Analysis:** None.

**Financial Considerations:** None.

**Goal Impact:** Ensure Efficient Infrastructure.

**Legal Considerations:** The Dedication and Acknowledgement Document will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council accept the Dedication and Acknowledgement Document.



### **DRAINAGE EASEMENT**

This EASEMENT made this 24th day of November, 2008, by and between Kelly L. Donham/Owner/Donham Properties, LLC party of the first part and the City of Wichita of the second part.

WITNESSETH: That the said first parties, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, repairing and accessing a drainage system over, along, and under the following-described real estate situated in Sedgwick County, Kansas; to wit:

A 20 foot wide Drainage Easement, containing 3,965 square feet, more or less, situated in Lot 5, Block 2 AIRPORT INDUSTRIAL PARK, Sedgwick County, Kansas, lying 10.00 feet on each side of the following described centerline:

COMMENCING at the Southeast Corner of Lot 5, Block 2, AIRPORT INDUSTRIAL PARK (Fnd. ½" Iron Bar w/ Cap LS#58), said point bears North 88°24'21" East, a distance of 418.25 feet from the Southwest Corner of said Lot 5 (Fnd. ½" Iron Bar); thence North 44°14'27" West, a distance of 103.62 feet to the POINT OF BEGINNING of said centerline; thence North 01°29'35" West, a distance of 223.62 feet to the POINT OF TERMINATION on the Southerly Right of Way line of Hoover Court as it presently exists.

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, repairing, and accessing said drainage system.

DED 2008-12  
(Sedg 2008-89)


IN WITNESS WHEREOF: The said first party has signed these presents the day and year first above written.

By:   
Kelly L. Donham/Owner/Donham  
Properties, LLC

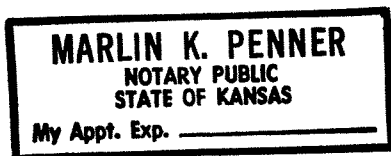
STATE OF KANSAS )  
SEDGWICK COUNTY ) SS:

BE IT REMEMBERED, that on this 24<sup>th</sup> day of Nov., 2008, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kelly L. Donham/Owner/Donham Properties, LLC personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited partnership.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

  
Notary Public

(My Appointment Expires: 5-20-12)




**ACKNOWLEDGEMENT DOCUMENT**

To whom it may concern: Present and or future owner(s) of said property:

BEG 45.88 FT W & 1 FT N SE COR LOT 5 TH W 75 FT N 75 FT E 75 FT S 75  
TO BEG BLOCK 2 AIRPORT INDUSTRIAL PARK ADD (TOWER). Key Number:  
D281630001; Control Number: 533702; Parcel Id: 138340110100301; Tax Unit:  
6702 Wichita; 2007 Mill Levy: 118.050; School District: USD 259; Land Use:  
RADIO/TV TRANS FACLTY.

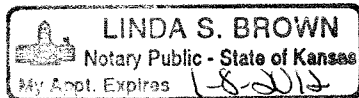
Shall commit to and provide from the City Of Wichita a main sewer extension to  
service said property if needed.

By:   
Kelly L. Donham/Owner/Donham Properties, LLC

STATE OF KANSAS                    )  
SEDGWICK COUNTY                )    SS:

BE IT REMEMBERED, that on this 7<sup>th</sup> day of November, 2008, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kelly L. Donham/Owner/Donham Properties, LLC, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited partnership.

In testimony whereof, I have hereunto set my hand and affixed my official seal the day and year above written.



  
Notary Public

(My Appointment Expires: \_\_\_\_\_)

**City of Wichita**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** DED 2008-13 -- Access Dedication located north of Pawnee and on the west side of Seneca. (District IV)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning (Consent)

---

**Staff Recommendation:** Accept the Dedication.

**Background:** This Dedication is associated with Lot Split Case No. SUB 2008-71 (Meyers Gardens Addition). The Dedication is for access control along Seneca Street, except for one opening.

**Analysis:** None.

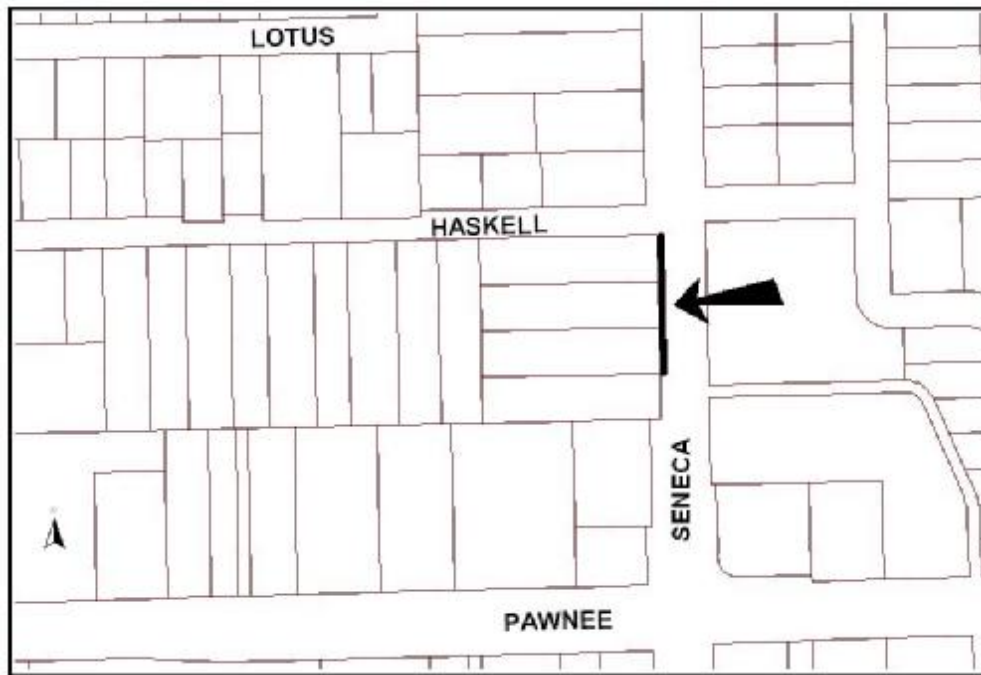
**Financial Considerations:** None.

**Goal Impact:** Ensure Efficient Infrastructure.

**Legal Considerations:** The Dedication has been recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council accept the Dedication.





~~Page 1 of 2~~



Sedgwick County  
Register of Deeds - Bill Meek  
DOC.#/FLM-PG: 29025168  
Receipt #: 1705256  
Pages Recorded: 2  
Cashier Initials: PJ  
Recording Fee: \$12.00  
Authorized By: *[Signature]*

Date Recorded: 12/10/2008 11:51:18 AM



### ACCESS DEDICATION

#### KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Brad Saville, Member, Seneca Property, L.L.C., being the owner of the following described real estate in Wichita, Sedgwick County, Kansas to wit:

#### TRACT A

Lot 3, Meyers Gardens, Sedgwick County, Kansas; ALONG with the south 30 feet of Lot 2 in said Addition; AND ALONG WITH the north 12 feet of the south 42 feet of the west 232.74 feet of said Lot 2; EXCEPT that part condemned for street in Condemnation Case No. A-72906.

#### TRACT B

Lot 1 and Lot 2, Meyers Gardens, Sedgwick County, Kansas; EXCEPT the south 30 feet of said Lot 2; AND EXCEPT the north 12 feet of the south 42 feet of the west 232.74 feet of said Lot 2; AND EXCEPT that part condemned for street in Condemnation Case No. A-72906.

does hereby dedicate all abutter's rights of access of the above-described real estate to the public to Seneca Street except for two openings, AND access to Haskell Street except for one opening.

P:\831\07-Pawnee-Seneca\access dedication-BK.doc

DED 2008-13  
(Sub 2008-71)

1043671 *[Signature]*

12.00  
187mm  
ded. ded

Page 2 of 2

Executed this 2nd day of October, of 2008.

Seneca Property, L.L.C.

Brad Saville  
Brad Saville, Member

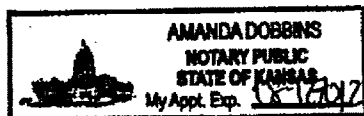
STATE OF Kansas )  
COUNTY OF Sedgwick ) SS

BE IT REMEMBERED, That on this 2nd day of October, 2008, before me, the undersigned, a Notary Public in and for the county and state aforesaid, came Brad Saville, Member, Seneca Property, L.L.C., personally known to me and they have executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Amanda Dobbins  
Notary Public

My Commission Expires: 08-12-2012



Submitted to the Wichita-Sedgwick  
County Metropolitan Area Planning  
Commission and the City Council of  
the City of Wichita, Kansas, and  
approved by said City Council

This \_\_\_\_\_,

\_\_\_\_\_  
City Clerk

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** VAC2007-00048 Request to vacate a portion of a platted easement; generally located west of Woodlawn Avenue, on the south side of 29<sup>th</sup> Street North. (District I)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

---

**Staff Recommendation:** Approve.

**Background:** The applicant, Central Congregation of Jehovah's Witnesses, is requesting consideration for the vacation of a portion of a platted drainage and utility easement. The easement is located along the west lot line of Tract A, Block 1, the Northeast Elementary School Addition. This request is associated with VAC2008-00025 and SUB2008-00057; VAC2008-00025 is also on today's agenda for Council's consideration and action. Both VAC2008-00025 and VAC2007-00048 were contingent on a lot split, SUB 2008-00057, being completed. SUB2008-00057 was approved by the City Council on October 21, 2008. The lot split created Tracts A (subject site) and B, in Block 1, the Northeast Elementary School Addition. SUB2008-00057 dedicated 10-foot of right-of-way along Tract A, Tract B and 29<sup>th</sup> Street North frontage, as required by VAC2007-48. The Northeast Elementary School Addition was recorded with the Register of Deeds on July 9, 2002.

**Analysis:** The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

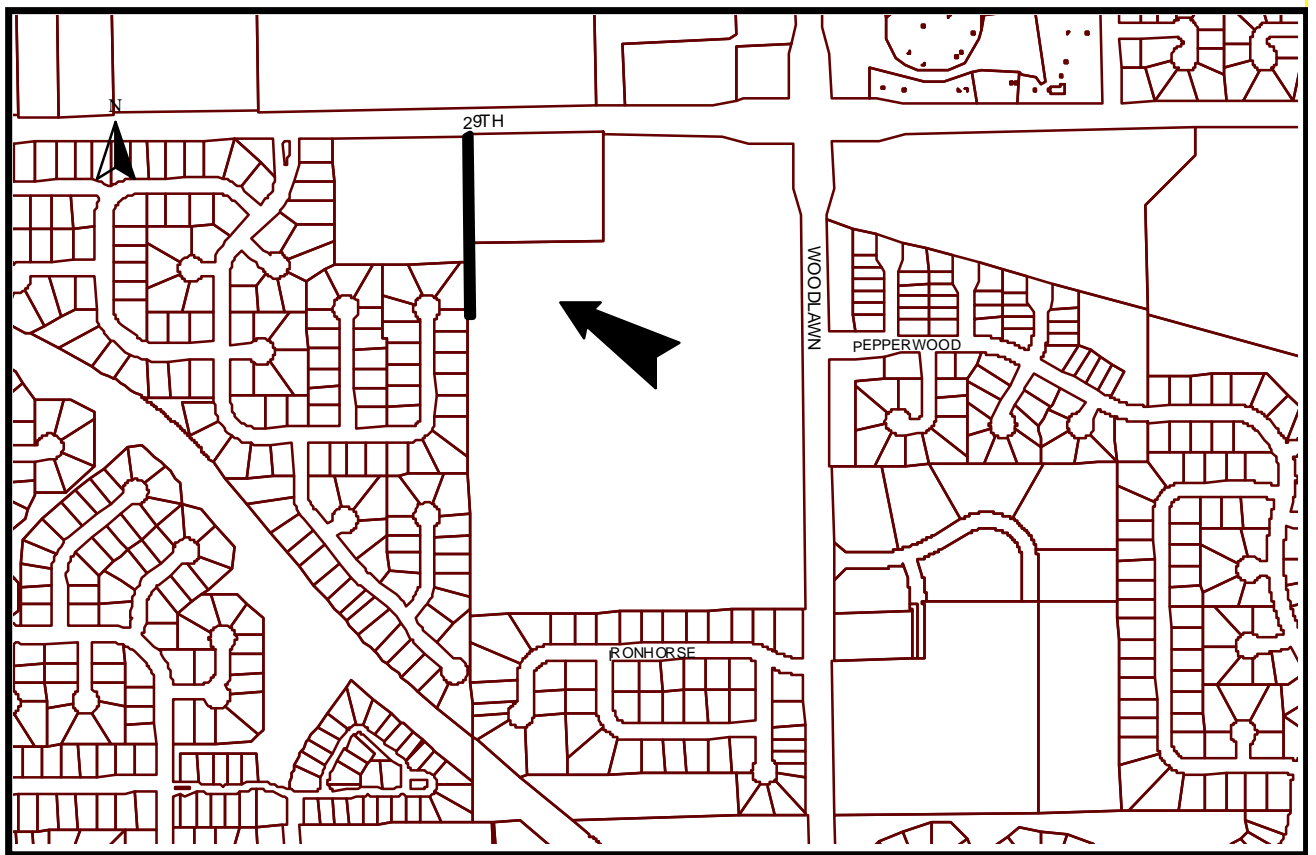
**Financial Considerations:** None.

**Goal Impact:** Ensure efficient infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** Dedication of access control by separate instrument.



**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** VAC2008-00020 Request to vacate a portion of a platted setback; generally located west of Meridian Avenue, on the north side of 53<sup>rd</sup> Street North. (District VI)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

---

**Staff Recommendation:** Approve.

**MAPC Recommendation:** Approve (unanimously).

**Background:** The applicants, Wal-Mart Stores Inc. and McDonalds Real Estate Company, propose to vacate the platted 15-foot interior side yard setbacks that run parallel to the common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition. A “Boundary Shift” between the two described lots will establish a new common lot line; Lot 2 will become larger and Lot 3 smaller. The site is part of CUP DP-299, and the proposed Boundary Shift will be placed with the CUP. There are no utilities, water or sewer in the proposed common lot line shift. The Northgate Commercial Park 1st Addition was recorded with the Register of Deeds on March 9, 2007.

**Analysis:** The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC’s advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

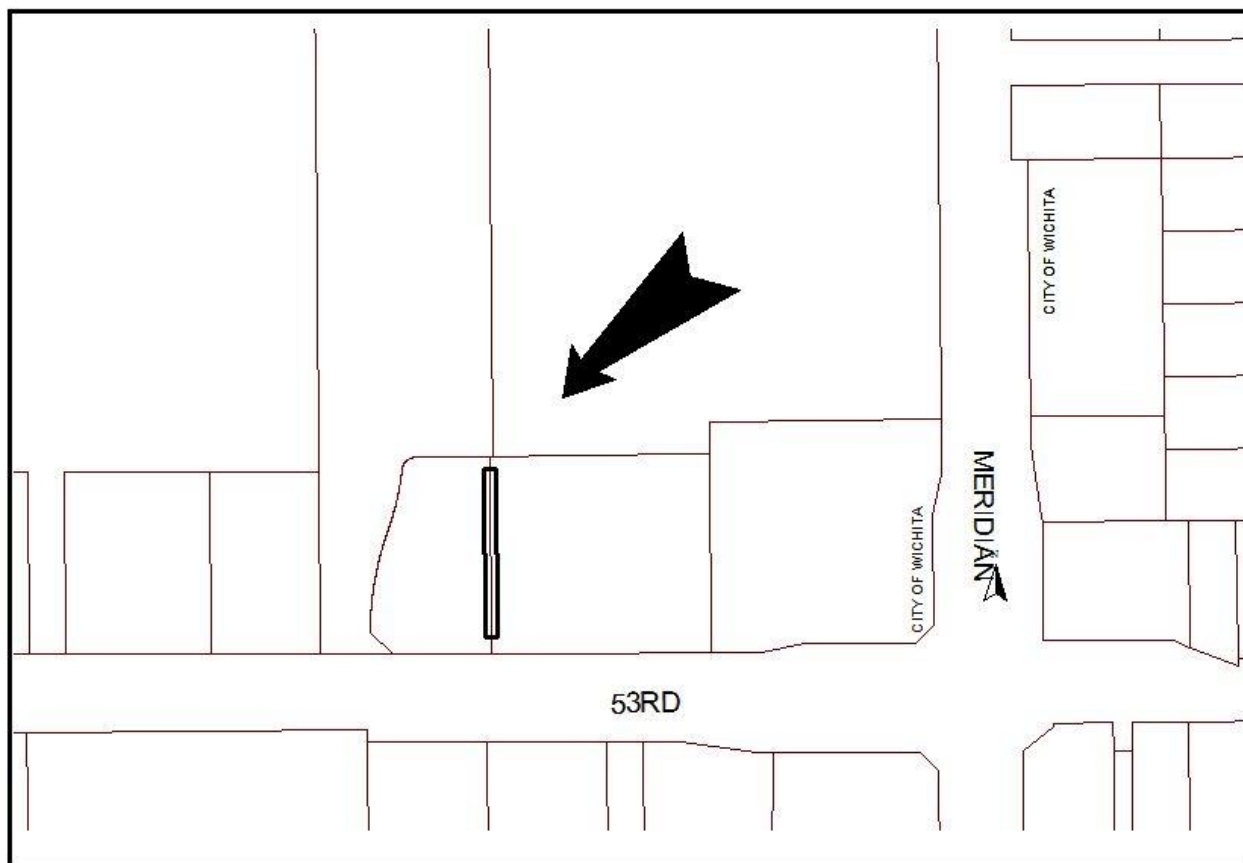
**Financial Considerations:** None.

**Goal Impact:** Ensure efficient infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order, a dedication by separate instrument of setbacks and a Boundary Shift will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** A dedication by separate instrument of setback and a Boundary Shift.



**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** VAC2008-00025 Request to vacate a portion of platted complete access control; generally located on the south side of 29<sup>th</sup> Street North and west of Woodlawn Boulevard. (District I)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

---

**Staff Recommendation:** Approve.

**Background:** The applicant, Central Congregation of Jehovah's Witnesses, is requesting consideration for the vacation of a portion of platted complete access control to allow a 40-foot full movement opening onto 29th Street North. This request is associated with VAC2007-00048 and SUB2008-00057; VAC2007-00048 is also on today's agenda for Council's consideration and action. Both VAC2008-00025 and VAC2007-00048 were contingent on a Lot Split, SUB 2008-00057, being completed. SUB2008-00057 was approved by the City Council on October 21, 2008. The lot split created Tracts A (subject site) and B, Block 1, the Northeast Elementary School Addition. Ten feet of right-of-way was dedicated on the lot split; this was a condition of this vacation case. The Northeast Elementary School Addition was recorded with the Register of Deeds on July 9, 2002.

**Analysis:** The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

**Financial Considerations:** None.

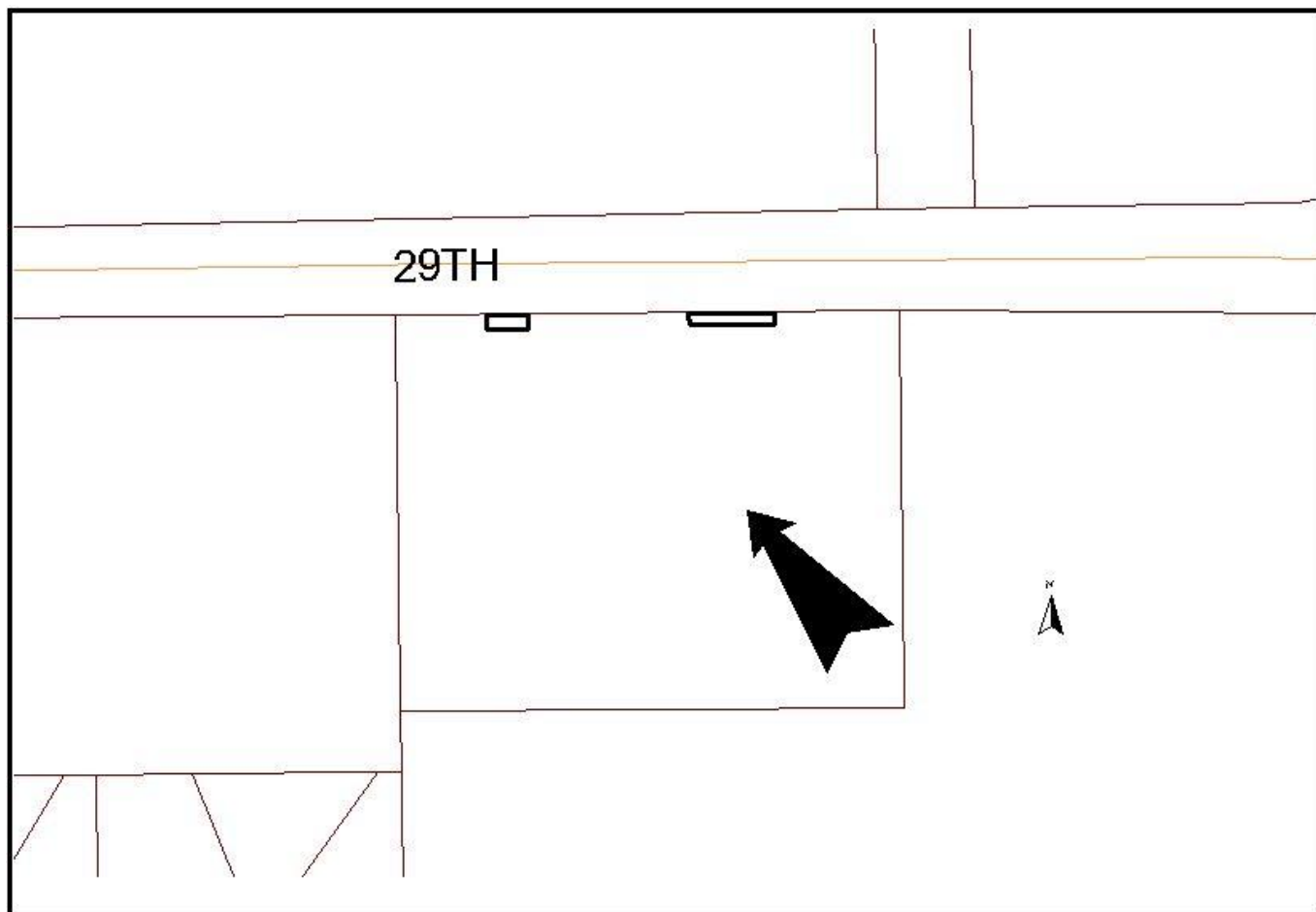
**Goal Impact:** Ensure efficient infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order and dedication of access control by separate instrument will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** Dedication of access control by separate instrument.





City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Wichita Airport Authority

**SUBJECT:** Wichita Mid-Continent Airport  
Airport Road Rehabilitation

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Change Order.

**Background:** On April 22, 2008 the Wichita Airport Authority contracted with APAC - Kansas to rehabilitate a portion of Airport Road at Mid-Continent Airport.

**Analysis:** During construction, additional pavement patching was required after the road surface was milled and more damage was exposed. A change order has been prepared to adjust the final quantities that are available at this time.

**Financial Considerations:** The cost of the change order is \$74,985.62. This represents a 24% addition to the original contract of \$303,879.00, and brings the total contract to \$378,864.62. Funding will be from General Obligation bonds paid for with Airport Revenue.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through maintaining Airport roadways that serve the aviation community.

**Legal Considerations:** The Law Department has approved the Change Order as to form.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the Change Order and authorize the necessary signatures.

**Attachments:** Change Order No. 1.

## CHANGE ORDER

Date: November 24, 2008

No. 1 - Final

OWNERS' Project No. 457-379

FAA Project No. NA

Project: Airport Road North Overlay Rehabilitation

Contractor: APAC-Kansas, Inc.

Contract Date: May 2008

Nature of changes:

1. Adjustment of Final Quantities to reflect As-Constructed Quantities
2. Add line item for additional pavement marking per Owner request (Line Item #5 – Pavement markings).

Attachments:

1. Wichita Airport Authority letter dated November 19, 2008.
2. APAC-Kansas, Inc. letter dated November 21, 2008.
3. Wichita Airport Authority letter dated November 24, 2008.

These changes result in the following adjustment of Contract price and Contract time:

Contract price prior to this Change Order	\$	<u>303,879.00</u>
Net (increase) ( <del>decrease</del> ) resulting from this Change Order	\$	<u>74,985.62</u>
Current Contract price including this Change Order	\$	<u>378,864.62</u>

Contract time prior to this Change Order	<u>75</u>
	(Days <del>or Date</del> )

Net (increase) ( <del>decrease</del> ) resulting from this Change Order	<u>19</u>
	(Days)

Current Contract time including this Change Order	<u>94</u>
	(Days <del>or Date</del> )

The changes are accepted.

Date: 11-25-08

  
CONTRACTOR  
TOM W. CASTOR, EST. MGR.

The changes are approved.

Date: 12-1-08

  
ENGINEER

You are directed to make the changes noted:

Dated: \_\_\_\_\_  
OWNER

Approved as to Form  
Day & Release/for



**Wichita Airport Authority**

November 19, 2008

Tom W. Castor  
APAC - Kansas, Inc.  
P.O. Box 17470  
Wichita, Kansas 67217

RE: Wichita Mid-Continent Airport  
North Airport Road Rehabilitation

Mr. Castor:

Please provide a cost to remove and replace 620 LF +/- pavement markings from the south limits of Phase I to the median that separates Airport Road in the same configuration and dimensions.

Should you have any questions, please contact me at (316) 946-4715.

WICHITA AIRPORT AUTHORITY

Don Dearmont  
Construction Superintendent

Cc: John Oswald, P.E., Airport Engineering and Planning Manager



**APAC Kansas, Inc. • Shears Division**

**Wichita Branch**

3511 S. West Street  
P.O. Box 17470  
Wichita, Kansas 67217-0470

Telephone (316) 524-5200  
Fax (316) 524-3651

November 21, 2008

Wichita Airport Authority  
Attn: Dan Dearmont  
2173 Air Cargo Road  
Wichita, KS 67277-0130

Re: Pavement Overlay Rehabilitation Airport Road North, Wichita, Kansas  
Wichita Mid-Continent Airport

**Subject: Change Order; Remove and Replace Pavement Markings**

Dear Mr. Dearmont:

Please find below price to remove and replace approximately 620 LF pavement markings as requested. This work is located near the south limits of the project at the median.

Roadsafe	620 LF @ 1.15	\$ 713.00
APAC-Kansas, Inc.	0%	\$ 0.00
Total Change Order Request		\$ 713.00

APAC-Kansas, Inc., waives its right to apply Overhead and Profit to Roadsafe quoted price.

If you have questions or need additional information, please call me at 316-524-5200.

Sincerely,

Tom W. "TJ" Castor  
Estimating Manager  
APAC-Kansas, Inc., Shears Division



**Wichita Airport Authority**

November 24, 2008

Tom W. Castor  
APAC - Kansas, Inc.  
P.O. Box 17470  
Wichita, Kansas 67217

RE: Wichita Mid-Continent Airport  
North Airport Road Rehabilitation

Mr. Castor:

After review of your letter dated November 21, 2008 of the proposed cost to remove/replace additional pavement markings, we accept this additional cost of \$713 to the project and will reflect it in Change Order #1 - Final.

We anticipate no change in contract time due to this proposal.

Should you have any questions, please contact me at (316) 946-4715.

WICHITA AIRPORT AUTHORITY

Don Dearmont  
Construction Superintendent

Attach.

Cc: John Oswald, P.E., Airport Engineering and Planning Manager

Airport Road Rehab Final Quantities						
Item No.	Bid Items	Qty	UOM	Unit Cost	Total	
1	Pavement Repair Full Depth	784.86	SY	\$ 310.00	\$	243,306.60
2	Curb & Gutter Replacement	192.1	LF	\$ 60.00	\$	11,526.00
3	Curb Only	0	LF	\$ 45.00	\$	-
4	Asphalt Overlay	5605.4	SY	\$ 22.00	\$	123,319.02
*5	Pavement Markings	620	LF	\$1.15	\$	713.00
				Total	\$	378,864.62

\* Change per Change Order #1-Final: Add line item for additional pavement markings



Bids were opened December 19, 2008, pursuant to advertisements published on:

**PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications**

**Water Distribution System to serve Via Christi West Campus Addition; east of 151st Street West, north of 21st Street North (448-90402/735429/470102)** Traffic to be maintained using flag persons and barricades. (District V)

Nowak Construction	-	\$481,066.75
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**Evergreen Lane from the south line of 2nd Street North to the south line of Lot 29 to serve Evergreen Place Addition; north of Maple, east of Tyler (472-84647/766199/490217)** Traffic to be maintained using flag persons and barricades. (District V)

Cornejo & Sons Construction	-	\$493,810.50
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**Water Distribution System to serve Oatville Addition, north of MacArthur, west of West Street. Lateral 5, Main 22 Southwest Interceptor Sewer to serve Oatville Addition, north of MacArthur, west of West Street. (448-90072/735264/470935/468-83980/744113/480801)** Traffic to be maintained using flag persons and barricades. (District IV)

Nowak Construction	-	\$113,181.00 Group 1
		<u>\$143,136.80</u> Group 2
		\$256,317.80 Total Aggregate Bid

**Water Line at 6100 W. Central, east of the Big Ditch, Phase 1, south of Central, east of Ridge. (448-90400/635691/768740)** Traffic to be maintained using flag persons and barricades. (District V)

Mies Construction	-	\$51,240.00
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On motion the Board recommended that the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

**HOUSING AND COMMUNITY SERVICES DEPARTMENT/PUBLIC HOUSING DIVISION: Paint Interior Walls/Install Guard Bumps**

Pinnacle Builders, Inc.	-	\$18,470.00
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**WATER UTILITIES DEPARTMENT/PRODUCTION & PUMPING DIVISION:  
Roof Replacement**

Arma Coatings of Wichita Inc. - \$91,184.00

**PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION:  
Replace Roof At Linwood Recreation Bldg**

Buckley Roofing - \$215,979.00 Base Bid  
\$ 7.00 Option 1 (per linear foot)  
\$ 30.00 Option 2 (per linear foot)

**PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Painting  
Murdock House Cowtown**

Diggs Construction, LLC - \$30,691.00

**PARK DEPARTMENT/MAINTENANCE DIVISION: Picnic Tables & Benches –  
Expanded Metal:**

Diversified Metal Fabricators, Inc. – \$81,655.15 \*  
\*Award additional units

**PARK DEPARTMENT/MAINTENANCE DIVISION: Bleachers, Expand Metal  
Vinyl Coated Steel**

Diversified Metal Fabricators, Inc. - \$40,548.00

**PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION:  
Searchlight Fixtures & Lamps**

Defer two weeks

The Purchasing Division recommended that the contracts be awarded as outlined above, same being the lowest and best bid.

Bids were opened January 2, 2009, pursuant to advertisements published on:

**PUBLIC WORKS DEPARTMENT/STREET MAINTENANCE DIVISION: Hot and Cold Mix Asphalt**

Cornejo & Sons, Inc.	-	\$605,880.00
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**INFORMATION TECHNOLOGY DEPARTMENT (IT/IS): Fiber Optic Cable Installations**

TCS Communications, LLC	-	\$ 88,590.00
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**PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Searchlight Fixtures and Lamps**

Sky-View Searchlight Company	-	\$ 66,903.50 *Negotiated
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**PARK DEPARTMENT/FORESTRY & LANDSCAPE DIVISION: Trees, Ornamental & Shade**

Johnsons Garden Center, Inc.	-	\$ 17,212.50 Award Redirected Group 4
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The Purchasing Division recommended that the contracts be awarded as outlined above, same being the lowest and best bid.

**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL JANUARY 6, 2009**

- a. Water Distribution System to serve Via Christi West Campus Addition (east of 151st Street West, north of 21st Street North) (448-90402/735429/470102) Traffic to be maintained using flagpersons and barricades. (District V) - \$839,000.00
- b. Evergreen Lane from the south line of 2nd Street North to the south line of Lot 29 to serve Evergreen Place Addition (north of Maple, east of Tyler) (472-84647/766199/490217) Traffic to be maintained using flagpersons and barricades. (District V) - \$591,600.00
- c. Water Distribution System to serve Oatville Addition (north of MacArthur, west of West Street) (448-90072/735264/470935) Traffic to be maintained using flagpersons and barricades. (District IV) - \$210,250.00
- d. Lateral 5, Main 22 Southwest Interceptor Sewer to serve Oatville Addition (north of MacArthur, west of West Street) (468-83980/744113/480801) Traffic to be maintained using flagpersons and barricades. (District IV) - \$251,600.00
- e. Water Line at 6100 W. Central, east of the Big Ditch, Phase 1 (south of Central, east of Ridge) (448-90400/635691/768740) Traffic to be maintained using flagpersons and barricades. (District V) - \$63,575.00

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Petition for a Storm Water Drain in Casco Addition (north of Pawnee, west of West St.) (District IV)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

---

**Recommendation:** Approve the Petition.

**Background:** The Petition has been signed by one owner representing 100% of the improvement district.

**Analysis:** The project will provide drainage improvements for a commercial development located north of Pawnee, west of West St.

**Financial Considerations:** The Petition totals \$96,000. The funding source is special assessments.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing drainage improvements required for commercial development.

**Legal Considerations:** State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

**Recommendations/Actions:** It is recommended that the City Council approve the Petition, adopt the Resolution and authorize the necessary signatures.

**Attachments:** Map, CIP Sheet, Petition and Resolution.

## RESOLUTION NO. 09-009

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING STORM WATER DRAIN NO. 353 (NORTH OF PAWNEE, WEST OF WEST ST) 468-84564 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING STORM WATER DRAIN NO. 353 (NORTH OF PAWNEE, WEST OF WEST ST) 468-84564 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve Storm Water Drain No. 353 (north of Pawnee, west of West St.) 468-84564.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Ninety-Six Thousand Dollars (\$96,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after December 1, 2008, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

CASCO ADDITION

Lot 1

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1, CASCO ADDITION shall pay 100 percent of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

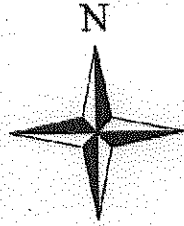
ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

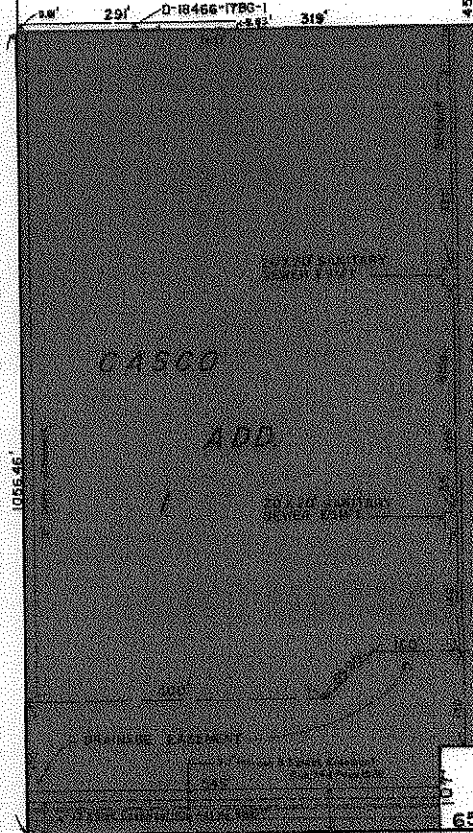
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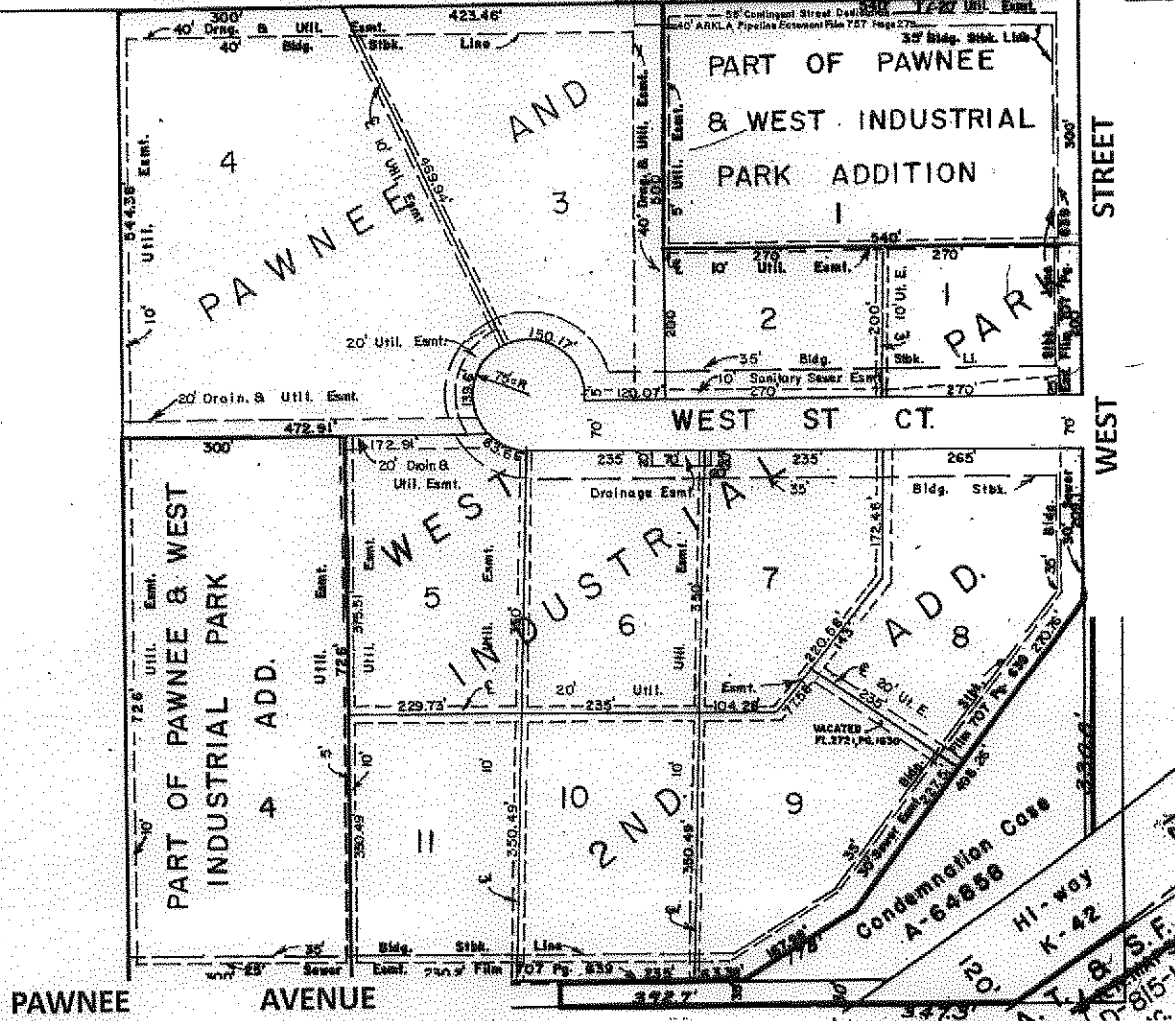
D-18466-17BG

338.15



RD ST. (39th ST. WEST) PAGES 1537 FILM 73

SAN SEWER PUMP STATION





CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

- USE:
1. Prepare in triplicate  
2. Send original & 2 copies to budget.  
3. City Manager to sign all copies.  
4. File original w/ initiating resolution in City Clerk.  
5. Return 2nd copy to initiating department.  
6. Send 3rd copy to Controller.

To Initiate Project ☒

To Revise Project ☐

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location	
Public Works	Eng	12/12/2008	Storm Water drain in Casco Addition	
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date	
NI-200424		2009		
9. Estimated Start Date As Required	10. Estimated Completion Date As Required		11. Project Revised	
12. Project Cost Estimate				
ITEM	GO	SA	OTHER	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer		\$96,000		\$96,000
Sidewalk				
Water				
Other				
Totals		\$96,000		\$96,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.



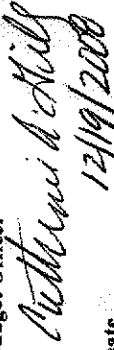
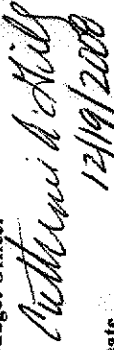
Platting Required	Yes	No
Lot Split		
Petition	x	
Ordered by WCC		

Remarks:

100% Petition  
468-84564  
Storm Water Drain No. 353

13. Recommendation:

Approve the petition and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
			
		Date	Date
			12/19/2008

RECEIVED

DEC 01 '08

STORM WATER DRAIN PETITION

CITY CLERK OFFICE

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

SWD 353

468-84564

CASCO ADDITION

Lot 1

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

- (a) That there be constructed a storm water drainage system to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the improvements is Ninety-Six Thousand Dollars (\$96,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of one percent per month from and after December 1, 2008.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

VAC 2008-34

- (d) That the method of assessment of all costs of the improvements for which the improvement district is liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1, CASCO ADDITION shall pay 100 percent of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis:

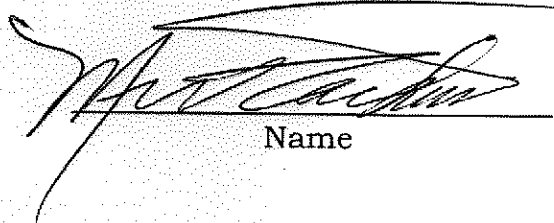
2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.
3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<u>CASCO ADDITION</u> Lot 1	Shannon #2, LLC  By: <u>Jan Shannon</u> Jan Shannon, Manager	12/2/08

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

  
Name

Baughman Company, P.A.  
315 Ellis, Wichita, KS 67211  
Address

262-7271  
Telephone No.

Sworn to and subscribed before me this  
2008.

\_\_\_\_\_ day of December



  
Deputy City Clerk

CASCO ADDITION

Wichita, Sedgwick County, Kansas

STORM WATER DRAIN PETITION

Benefit District:  
Lot 1

Extend RCBC to straight channel.

Cost Estimate:

Item	Quantity	Unit	Unit Price	Amount
9"x3' RCBC	130	L.F.	\$400.00	\$52,000.00
RCBC Connection	1	L.S.	\$1,000.00	\$1,000.00
Manhole	1	EA.	\$400.00	\$400.00
Ditch (10' Bottom with 6:1 Slopes)	490	L.F.	\$11.00	\$5,390.00
Erosion Control BMP's	1	L.S.	\$2,000.00	\$2,000.00
Site Clearing and Restoration	1	L.S.	\$10,000.00	\$10,000.00
Subtotal				\$70,790.00
+ 35% Design, Insp., & Administration				\$24,776.50
Total				\$95,566.50

Petition Amount\$96,000

Average Monthly Assessment\$759 (Based on 15 years @ 5%)

12/2/2008  
Conc. Road

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Petitions for Sanitary Sewer Projects in Northgate and Northgate Commercial Additions (north of 53<sup>rd</sup> St. North, west of Meridian) (District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the new Petitions.

**Background:** On October 24, 2006, and April 15, 2008, the City Council approved Petitions for sanitary sewer improvements in Northgate and Northgate Commercial Additions. The Petition budgets included main benefit fees. It has since been determined that a portion of the improvement district areas have previously been included in a sanitary sewer main improvement district. The developers have submitted new Petitions to correct the budgets. The Petitions have been signed by two owners representing 100% of the improvement districts.

**Analysis:** The projects will provide sanitary sewer improvements for new residential and commercial developments located north of 53<sup>rd</sup> St. North, west of Meridian.

**Financial Considerations:** The previous Petitions total \$992,303. The new Petitions total \$832,158. The funding source is special assessments.

**Goal Impact:** The projects address the Efficient Infrastructure goal by providing sanitary sewer improvements required for new development.

**Legal Considerations:** State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

**Recommendations/Actions:** It is recommended that the City Council approve the new Petitions, adopt the Resolutions and authorize the necessary signatures.

**Attachments:** Map, CIP Sheets, Petitions and Resolutions.

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-010

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 4, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84250 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 4, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84250 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 06-564 adopted on October 24, 2006 and Resolution No. 07-272 adopted on May 1, 2007 are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Lateral 4, Main 15, Sanitary Sewer No. 23 (north of 53rd St. North, west of Meridian) 468-84250.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be Three Hundred Thirty-Seven Thousand Dollars (\$337,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after September 1, 2006, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement districts with respect to the improvements district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Five Thousand Three Hundred Twenty-Three Dollars (\$5,323).

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

NORTHGATE ADDITION  
Lots 33 through 69, Block B  
Lots 24 through 53, Block C

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 33 through 69, Block B, and Lots 24 through 53, Block C, NORTHGATE ADDITION, shall each pay 1/67 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.



SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-011

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 5, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84251 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 5, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84251 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 06-565 adopted on October 24, 2006 and Resolution No. 07-273 adopted on May 1, 2007 are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Lateral 5, Main 15, Sanitary Sewer No. 23 (north of 53rd St. North, west of Meridian) 468-84251.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be One Hundred Sixty-Six Thousand Dollars (\$166,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after September 1, 2006, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement districts with respect to the improvements district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Four Thousand Eight Hundred Thirty-Five Dollars (\$4,835).

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

NORTHGATE ADDITION  
Lots 54 through 65, Block C  
Lots 24 through 42, Block D

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 54 through 65, Block C, and Lots 24 through 42, Block D, NORTHGATE ADDITION, shall each pay 1/31 of the total cost of the improvements.

That the method of assessment of all costs of the sanitary sewer benefit fee for which the improvement district is liable shall be on a fractional basis. Lots 61 through 65, Block D, NORTHGATE ADDITION shall each pay 1/7 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

## RESOLUTION NO. 09-012

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 6, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84252, IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 6, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84252 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 06-566 adopted on October 24, 2006 and Resolution No. 07-274 adopted on May 1, 2007 are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Lateral 6, Main 15, Sanitary Sewer No. 23, (north of 53rd St. North, west of Meridian) 468-84252.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be Two Hundred Nine Thousand Dollars (\$209,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after September 1, 2006, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement districts with respect to the improvements district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Twenty-Six Thousand Two Hundred Twenty-Three Dollars (\$26,223).

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

NORTHGATE ADDITION  
Lots 1 through 32, Block B

UNPLATTED TRACT 'A'

That part of the SE ¼ of Sec. 13, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the SW corner of said SE ¼; thence N00°10'43"E along the west line of said SE ¼, 1295.00 feet; thence S89°48'20"E, 1727.29 feet to a point 1314.77 feet north of the south line of said SE ¼ as measured parallel with the east line of said SE ¼ and 915.60 feet normally distant west of the east line of said SE ¼; thence N00°00'00"E parallel with the east line of said SE ¼, 139.23 feet to a point 1454.00 feet north of the south line of said SE ¼ as measured parallel with the east line of said SE ¼; thence S89°09'05"E parallel with the south line of said SE ¼, 255.03 feet to a point on the west line of the SE ¼ of the NE ¼ of said SE ¼, and for a point of beginning; thence N00°02'41"E along the west line of the SE ¼ of the NE ¼ of said SE ¼, 440.37 feet to a point 91.00 feet normally distant south of the south line of the NE ¼ of the NE ¼ of said SE ¼; thence S89°05'14"E parallel with the south line of the NE ¼ of the NE ¼ of said SE ¼, 660.34 feet to a point on the east line of said SE ¼; thence S00°00'00"E along the east line of said SE ¼, 439.63 feet to a point 1454.00 feet north of the SE corner of said SE ¼ as measured along the east line of said SE ¼; thence N89°09'05"W parallel with the south line of said SE ¼, 660.67 feet to the point of beginning.

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 32, Block B, NORTHGATE ADDITION, shall each pay 1/40 of the total cost of the improvements and UNPLATTED TRACT 'A', shall pay 8/40 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

First Published in the Wichita Eagle on January 9, 2009

RESOLUTION NO. 09-013

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 15, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84504 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 15, MAIN 15, SANITARY SEWER NO. 23 (NORTH OF 53RD ST. NORTH, WEST OF MERIDIAN) 468-84504 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 08-198 adopted on April 15, 2008 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Lateral 15, Main 15, Sanitary Sewer No. 23 (north of 53rd St. North, west of Meridian) 468-84504.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be One Hundred Ten Thousand Dollars (\$110,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after April 1, 2008, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

NORTHGATE COMMERCIAL ADDITION

Lots 1 through 9, Block A

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis if equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1, Block A, NORTHGATE COMMERCIAL ADDITION, shall pay 8,038/10,000 of the total cost of the improvements; Lot 2 Block A, NORTHGATE COMMERCIAL ADDITION, shall pay 190/10,000 of the total cost of the improvements; Lots 3 through 6, Block A and Lot 8, Block A, NORTHGATE COMMERCIAL ADDITION, shall each pay 253/10,000 of the total cost of the improvements; Lot 7, Block A, NORTHGATE COMMERCIAL ADDITION shall pay 243/10,000 of the total cost of the improvements; and Lot 9, Block A, NORTHGATE COMMERCIAL ADDITION, shall pay 264/10,000 of the total cost of the improvements

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or

parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 6<sup>th</sup> day of January, 2009.

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CARL BREWER, MAYOR

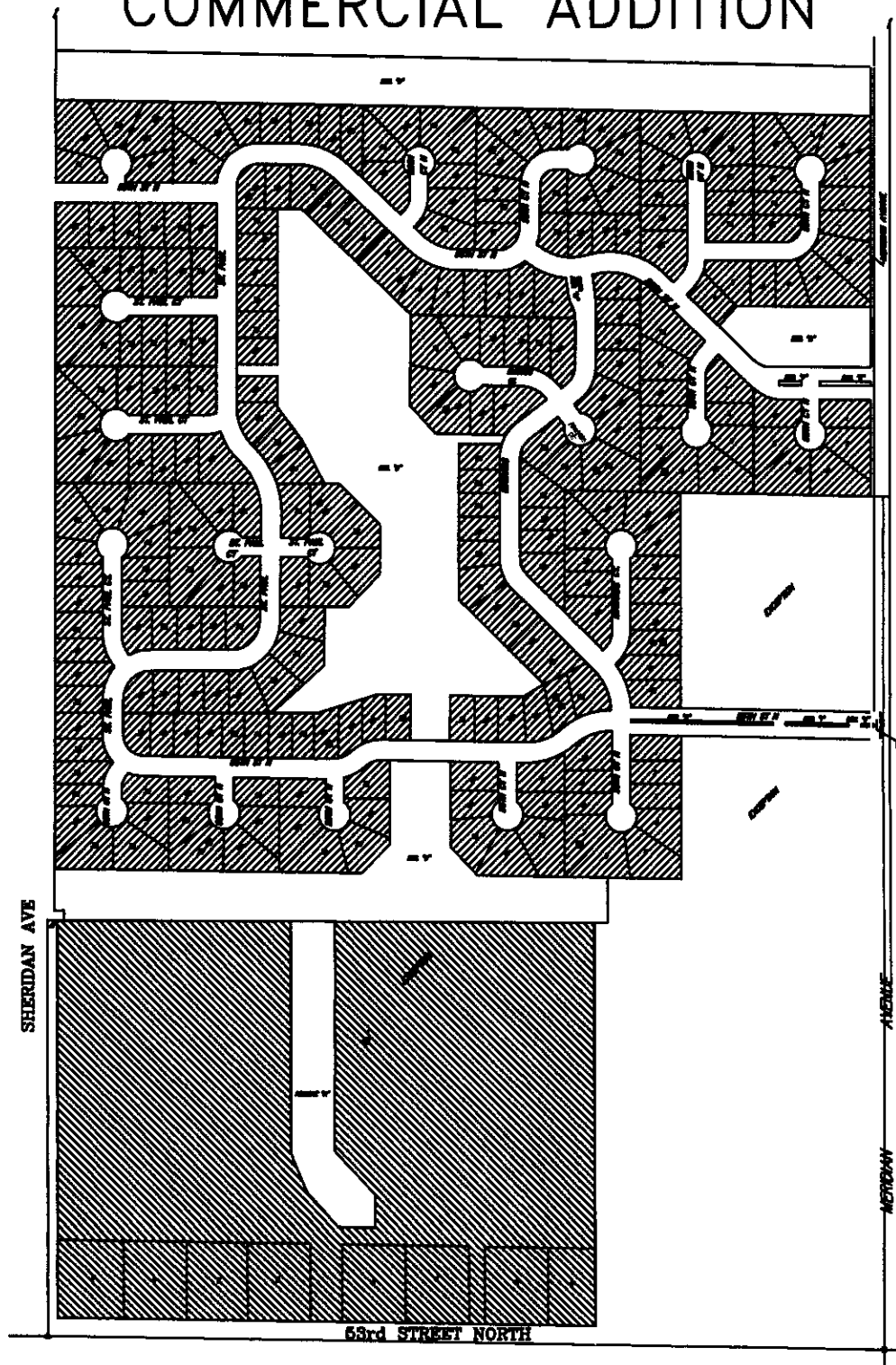
ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

# NORTHGATE & NORTHGATE COMMERCIAL ADDITION



BENEFIT DISTRICT   
 ( ACTUAL ALIGNMENT TO BE  
 DETERMINED BY DESIGN ENGINEER )





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CAPITAL IMPROVEMENT						
PROJECT AUTHORIZATION						
CITY OF WICHITA						
USE: To Initiate Project To Revise Project						
<table><tr><td></td><td>X</td></tr></table>						X
	X					
1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.						
1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/3/2008	4. Project Description & Location Sanitary Sewer in Northgate Addition			
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date			
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised			
As Required	As Required					
12. Project Cost Estimate						
ITEM	GO	SA	OTHER *	TOTAL		
Right of Way						
Paving, grading & const.						
Bridge & Culverts						
Drainage						
Sanitary Sewer		\$342,323		\$342,323		
Sidewalk						
Water						
Other						
Totals		\$342,323		\$342,323		
Total CIP Amount Budgeted						
Total Prelim. Estimate						
13. Recommendation: Approve the petition and adopt the Resolution						
Division Head <i>Jan Krenner</i>		Department Head <i>Sam C.</i>		Budget Officer <i>Anthony A. Hill</i> Date 12/9/2008		
				City Manager  Date		

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CAPITAL IMPROVEMENT				
PROJECT AUTHORIZATION				
CITY OF WICHITA				
USE: To Initiate Project To Revise Project				
1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.				
1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/3/2008	4. Project Description & Location Sanitary Sewer in Northgate Addition	
5. CIP Project Number NF-200424	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date	
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised	
As Required				
12. Project Cost Estimate				
ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer		\$170,835		\$170,835
Sidewalk				
Water				
Other				
Totals		\$170,835		\$170,835
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the petition and adopt the Resolution				
Division Head		Department Head		Budget Officer
[Signature]		[Signature]		[Signature]
				Date
				Date
				City Manager
				Date

CAPITAL IMPROVEMENT									
PROJECT AUTHORIZATION									
CITY OF WICHITA									
USE: 1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.									
To Initiate Project To Revise Project									
X									
1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/3/2008	4. Project Description & Location Sanitary Sewer in Northgate Addition						
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date						
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised						
As Required									
12. Project Cost Estimate									
ITEM	GO	SA	OTHER *	TOTAL					
Right of Way									
Paving, grading & const.									
Bridge & Culverts									
Drainage									
Sanitary Sewer		\$209,000		\$209,000					
Sidewalk									
Water									
Other									
Totals		\$209,000		\$209,000					
Total CIP Amount Budgeted									
Total Prelim. Estimate									
13. Recommendation: Approve the petition and adopt the Resolution									
Remarks: 100% Petition * Sanitary Sewer Utility Lateral 6, Main 15, SS # 23 468-84252									
12A.									
Platting Required Lot Split Petition Ordered by WCC									
Yes No									
X									
Division-Head Department Head Budget Officer City Manager									
Date Date Date Date									

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project

To Revise Project

1. Prepare in triplicate

2. Send original & 2 copies to budget.

3. City Manager to sign all copies.

4. File original w/ initiating resolution in City Clerk.

5. Return 2nd copy to initiating department.

6. Send 3rd copy to Controller.


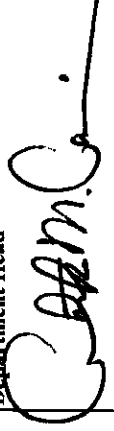
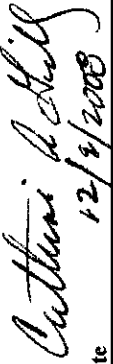
X

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/3/2008	4. Project Description & Location Sanitary Sewer in Northgate Commerical Addition
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date
9. Estimated Start Date As Required	10. Estimated Completion Date	11. Project Revised	
12. Project Cost Estimate			
ITEM	GO	SA	OTHER *
Right of Way			
Paving, grading & const.			
Bridge & Culverts			
Drainage			
Sanitary Sewer		\$110,000	
Sidewalk			
Water			
Other			
Totals		\$110,000	\$110,000
Total CIP Amount Budgeted			
Total Prelim. Estimate			
13. Recommendation: Approve the petition and adopt the Resolution			

Platting Required	Yes	No
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition  
\* Sanitary Sewer Utility  
Lateral 15, Main 15, SS # 23  
468-84504

Division Head 	Department Head 	Budget Officer 	City Manager
		Date 12/3/2008	Date

RECEIVED

APR 13

**SANITARY SEWER PETITION**  
(PHASE 3)

CITY CLERK OFFICE

**REVISED**

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

**NORTHGATE ADDITION**

Lots 33 through 69, Block B

Lots 24 through 53, Block C

468-84250

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as follows:

- 4-15-23
- (a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas, said lateral sanitary sewer to connect to an existing sanitary sewer main.
  - (b) That the estimated and probable cost of the lateral sanitary sewer is Three Hundred Thirty-Seven Thousand Dollars (\$337,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of one percent per month from and after September 1, 2006.
  - (c) That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Five Thousand Three Hundred Twenty-Three Dollars (\$5,323.00).
  - (d) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the lateral sanitary sewer for which the improvement district is liable, plus the benefit fee.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or

construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (e) i. That the method of assessment of all costs of the lateral sanitary sewer for which the improvement district is liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 33 through 69, Block B, and Lots 24 through 53, Block C, NORTHGATE ADDITION shall each pay 1/67 of the total cost of the improvements.

- ii. That the method of assessment of all costs of the sanitary sewer benefit fee for which the improvement district is liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 63 through 69, Block B, NORTHGATE ADDITION shall each pay 1/7 of the total cost of the improvements.

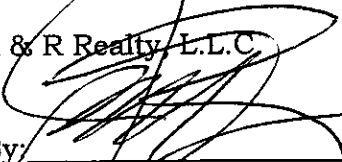
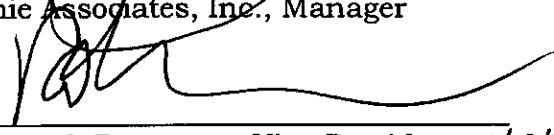
In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis:

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

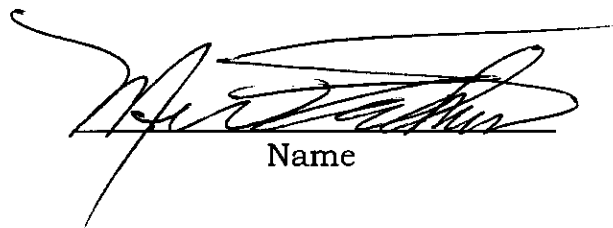
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>NORTHGATE ADDITION</u></b> Lots 33 through 69, Block B Lots 24 through 53, Block C	R & R Realty, L.L.C.  By: _____ Jay W. Russell, Member Ritchie Associates, Inc., Manager	11/12/08
	 By: _____ Rob Ramseyer, Vice-President	11/12/08

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

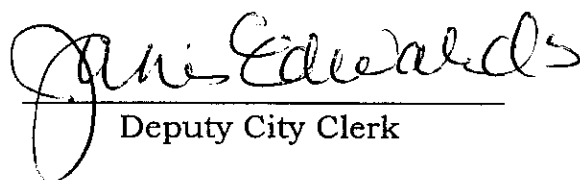
  
Name

Baughman Company, P.A.  
315 Ellis, Wichita, KS 67211  
Address

262-7271  
Telephone No.

Sworn to and subscribed before me this 3 day of December  
2008.



  
Deputy City Clerk



RECEIVED

DEC 03 '03

**SANITARY SEWER PETITION**  
(PHASE 4)

CITY CLERK OFFICE

**REVISED**

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

**NORTHGATE ADDITION**

Lots 54 through 65, Block C  
Lots 24 through 42, Block D

468-84251

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as follows:

(a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas, said lateral sanitary sewer to connect to an existing sanitary sewer main.

(b) That the estimated and probable cost of the lateral sanitary sewer is One Hundred Sixty-Six Thousand Dollars (\$166,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of one percent per month from and after September 1, 2006.

(c) That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Four Thousand Eight Hundred Thirty-Five Dollars (\$4,835.00).

(d) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the lateral sanitary sewer for which the improvement district is liable, plus the benefit fee.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or

5-15-23

(North of  
of  
53rd St.

North,  
West of

Meridian)

construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (e) i. That the method of assessment of all costs of the lateral sanitary sewer for which the improvement district is liable shall be on a fractional basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 54 through 65, Block C, and Lots 24 through 42, Block D, NORTHGATE ADDITION shall each pay 1/31 of the total cost of the improvements.

- ii. That the method of assessment of all costs of the sanitary sewer benefit fee for which the improvement district is liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 61 through 65, Block C, and Lots 24 and 25, Block D, NORTHGATE ADDITION shall each pay 1/7 of the total cost of the improvements.

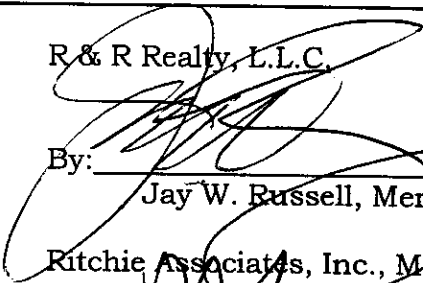
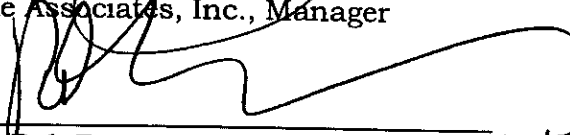
In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis:

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

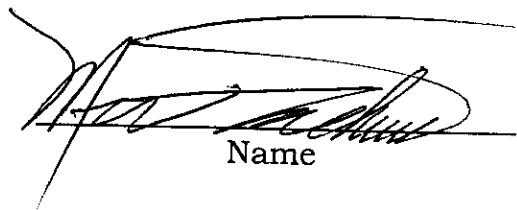
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>NORTHGATE ADDITION</u></b> Lots 54 through 65, Block C Lots 24 through 42, Block D	R & R Realty, L.L.C. 	
	By: Jay W. Russell, Member	11/12/08
	Ritchie Associates, Inc., Manager 	
	By: Rob Ramseyer, Vice-President	11/12/08

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

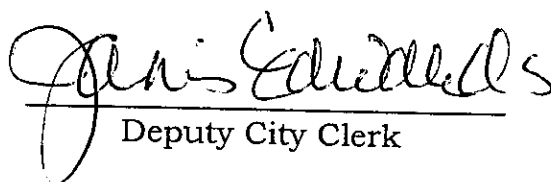
  
Name

Baughman Company, P.A.  
315 Ellis, Wichita, KS 67211  
Address

262-7271  
Telephone No.

Sworn to and subscribed before me this 3 day of December  
2008.



  
Deputy City Clerk

RECEIVED

DEC 03 '08

**SANITARY SEWER PETITION**  
(PHASE 5)

CITY CLERK OFFICE  
**REVISED**

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

**NORTHGATE ADDITION**  
Lots 1 through 32, Block B

468-84252

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as follows:

Lateral 6,

Main 15,

SS #23

- (a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the improvements is Two Hundred Nine Thousand Dollars (\$209,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of one percent per month from and after September 1, 2006.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the lateral sanitary sewer for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvements for which the improvement district is liable shall be on a fractional basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 32, Block B, NORTHGATE ADDITION shall each pay 1/32 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis:

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

---

LEGAL DESCRIPTION

SIGNATURE

DATE

**NORTHGATE ADDITION**

Lots 1 through 32, Block B

R & R Realty, L.L.C.

By: \_\_\_\_\_

Jay W. Russell, Member

11/12/08

Ritchie Associates, Inc., Manager

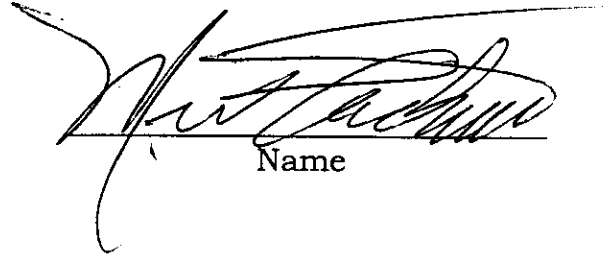
By: \_\_\_\_\_

Rob Ramseyer, Vice-President

11/12/08

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

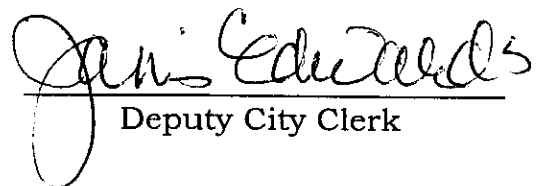
  
Name

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315 Ellis, Wichita, KS 67211  
Address

262-7271  
Telephone No.

Sworn to and subscribed before me this 3 day of December  
2008.



  
Deputy City Clerk



RECEIVED

DEC 03 '08

**SANITARY SEWER PETITION**

**CITY CLERK OFFICE**

**REVISED**

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

**NORTHGATE COMMERCIAL ADDITION**

Lots 1 through 9, Block A

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as follows:

- 15-15-23  
469.84504
- (a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
  - (b) That the estimated and probable cost of the improvements is One Hundred Ten Thousand Dollars (\$110,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of one percent per month from and after April 1, 2008.
  - (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the lateral sanitary sewer for which the improvement district is liable.

Construction of this Improvement may be abandoned, altered and/or performed privately in part or whole, in which case construction of this Improvement under the authority of this petition, shall be precluded. In addition, if the Improvement is abandoned at any state during the design and/or construction of the Improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the Improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said Improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvements for which the improvement district is liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1, Block A, NORTHGATE COMMERCIAL ADDITION shall pay 8,038/10,000 of the total cost of the improvements; Lot 2, Block A, NORTHGATE COMMERCIAL ADDITION shall pay 190/10,000 of the total cost of the improvements; Lots 3 through 6, Block A, and Lot 8, Block A, NORTHGATE COMMERCIAL ADDITION shall each pay 253/10,000 of the total cost of the improvements; Lot 7, Block A, NORTHGATE COMMERCIAL ADDITION shall pay 243/10,000 of the total cost of the improvements; and Lot 9, Block A, NORTHGATE COMMERCIAL ADDITION shall pay 264/10,000 of the total cost of the improvements.

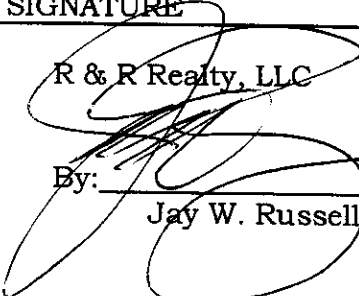
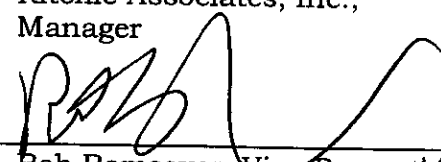
In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. (a) It is requested that the Improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

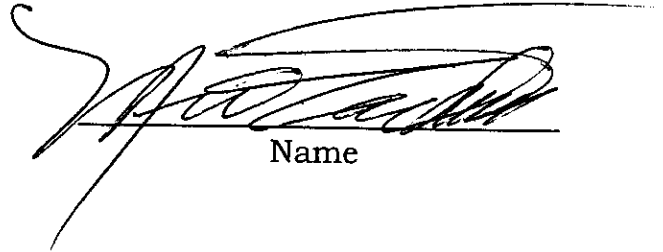
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned Improvements may be expeditiously completed and placed in use if and when such Improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>NORTHGATE COMMERCIAL ADDITION</u></b> Lots 1 through 9, Block A	 R & R Realty, LLC By: _____ Jay W. Russell, Manager 11/12/08 Ritchie Associates, Inc., Manager By:  _____ Rob Ramseyer, Vice-Pres. 11/12/08	

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

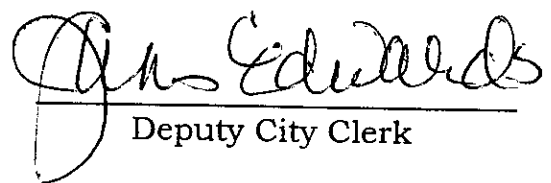
  
Name

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315 Ellis, Wichita, KS 67211  
Address

262-7271  
Telephone No.

Sworn to and subscribed before me this 3 day of December  
2008.



  
Deputy City Clerk

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Agreement for the Installation of Railroad Signals (District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

---

**Recommendation:** Approve the Agreement.

**Background:** Representatives of the City, State, and Railroad Company reviewed the railroad crossing on Meridian Ave., N. of Second St. As a result of this review, the installation of new warning devices and a signal system upgrade was recommended at this location.

**Analysis:** The attached Agreement authorizes the recommended signal system upgrade. The Kansas & Oklahoma Railroad (K&O) will coordinate the installation and/or upgrade of the existing signal system. The proposed signal installation work should have minimal impact to the existing traffic at this location.

**Financial Consideration:** The total cost of the proposed signal system improvements will be funded one hundred percent (100%) using Federal Section 130 Funds. The estimated cost of the signal improvements at the OKT crossing of Meridian, N. of Second is Two Hundred Sixty-Five Thousand, Two Hundred Sixteen Dollars and 63 Cents (\$265,216.63).

The Agreements obligate the City to install and maintain the necessary advance warning signs and pavement markings at the crossing area. The advance warning signs are presently in place at these locations.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

**Legal Consideration:** The Law Department has approved the Agreement as to legal form.

**Recommendation/Actions:** It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

**Attachments:** Location map and Agreement.

AGREEMENT

Kansas and Oklahoma Railroad Company  
Crossing Signals and Gates

Project No. 87 X2629-01  
RRP-X262 (901)  
Sedgwick County, Kansas

Agreement between the Kansas and Oklahoma Railroad Company, the City of Wichita, Sedgwick County, Kansas and the secretary of Transportation of the State of Kansas, relative to the construction and maintenance of Highway Crossing Signals under Section 130, United States Code 23.

\*\*\*\*\*

This agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Kansas and Oklahoma Railroad Company, hereinafter referred to as the "Company", the City of Wichita, Sedgwick County, Kansas hereinafter referred to as the "City", and the Secretary of Transportation of the State of Kansas, hereinafter referred to as the "Secretary".

**WITNESSETH:**

**WHEREAS**, the Secretary proposes to submit to the Federal Highway Administration of the United States Department of Transportation a project providing for the installation of railway-highway crossing signals, flashing light cantilever type and gates at a grade crossing (DOT #445187D) on Meridian Avenue in the City of Wichita, Sedgwick County, Kansas, said project to be known and designated as Project No. 87 X-2629-01; RRP-X262 (901) and more particularly described as follows:

at the intersection of Meridian Avenue and the Company's tracks approximately 1300 feet south of the Northeast Corner of Section 24, Township 27 South, Range 1 West, in the City of Wichita, Sedgwick County, Kansas,

and will recommend its approval for construction under Section 130, United States Code 23 and amendments thereto and,

**WHEREAS**, the locations for the warning devices were determined by a diagnostic team consisting of representatives of the Company, the City, and the Secretary, and

**WHEREAS**, the Secretary will prepare the plans for the project and such plans when approved by the Company, the City, and the Secretary are hereby made a part of this agreement and incorporated by reference herein, and

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants herein contained, and subject to the approval of the Federal Highway Administration, it is hereby agreed by the parties hereto:

1. The total cost of the project will be funded one-hundred percent (100%) using Federal Section 130 Funds, including preliminary engineering, construction, sales tax, users tax and such other items as are properly chargeable to the project under Section 130, United States Code 23 and amendments thereto.

2. The City will install and maintain the advance warning signs and pavement markings.
3. The Company will provide the Secretary with a copy of the bill of materials and the detailed estimate of the cost of the project. The estimate to be attached to and become a part of this agreement.
4. After being notified by the Secretary that the project has been approved and that work may begin, the Company will notify the Secretary's Metro Engineer at Wichita, Kansas, at least one week in advance of the date that work on the project is to be started, and should withdrawal from the project become necessary for any reason, the Company will each time notify the Secretary's Metro Engineer of the date that work on the project is to be resumed.
5. The Company will remove the existing cantilever signals and will install the new cantilever signals and gates and make all connections necessary for their successful operation, and do all the incidental and appurtenant work in accordance with the plans for the project and the "Manual on Uniform Traffic Control Devices". The Company will furnish all of the material and do all of the work with its own forces, or the work may be done by a contractor paid under a contract let by the Company in compliance with the provisions of 23 C. F. R., Chapter I, Subchapter B, Part 140, Subpart I. Said Title 23 Code of Federal Regulations (23 C. F. R.) is by reference made a part of this agreement. If this work is to be done by a contractor paid under a contract let by the Company, prior written approval shall be obtained from the Secretary. The estimated schedule by the Company for the completion of the work for this project is one year from the date of this agreement.
6. The Company will keep detailed and accurate records of all labor, materials, supplies, incidentals and all other necessary costs involved in carrying out the work performed by the Company under the terms of this agreement, and will give access to such records at any time during regular office hours to any authorized representative of the Secretary or of the Federal Highway Administration, for a period of three years from the date final payment has been received by the Company.
7. Preparation of preliminary estimates, procurements, performance of work, expenditures, billing and reimbursement shall all be done in accordance with 23 C. F. R., Chapter I, Subchapter B, Part 140, Subpart I.
8. The Company will submit to the Secretary's Metro Engineer a final and complete billing of the incurred costs within one year after the completion of the work, and the Secretary will pay an amount equal to ninety-five percent (95%) of the total amount of each billing for this project pending final audit. Upon completion of the final audit, the Secretary will reimburse the Company for the total amount of the final billing found eligible for payment by audit by the Secretary and/or Federal Highway Administration. The Company will reimburse the Secretary for one hundred percent (100%) of the amount of all items in the Company's bill which are declared by the Secretary and/or Federal Highway Administration to be ineligible for participation in Federal Funds.
9. The Company shall have title to the signals and gates and at its own cost and expense will maintain the signals and gates and will make ample provision each year for such maintenance provided, however, the Company shall be entitled to receive any contribution toward the cost of such maintenance as may be now, or hereafter made available the reason f any law, ordinance, regulation, order, grant or by other means or sources.

10. The parties hereto do hereby agree that the "Special Attachment No. 1" herewith, pertaining to the implementation of Title VI of the Civil Rights Act of 1964, is hereby made part of this agreement.

11. The Company does agree that the "Special Attachment No. 2" herewith, pertaining to lobbying, is hereby made a part of the agreement.

12. It is further understood that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the City, Company and the Secretary and their successors and assigns.

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed in triplicate by their proper offices on the day and year first herein written.

DEBRA L. MILLER  
SECRETARY OF TRANSPORTATION

BY: \_\_\_\_\_  
DANIEL L. SCHERSCHLIGHT, P.E.  
DIRECTOR OF ENGINEERING  
AND DESIGN

KANSAS AND OKLAHOMA RAILROAD  
COMPANY

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

ATTEST:

THE CITY OF WICHITA

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
TITLE: \_\_\_\_\_  
(PRESIDENT OF GOVERNING BODY)

The above instrument approved as to form:  
this \_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
City Attorney



**KANSAS DEPARTMENT OF TRANSPORTATION**

Special Attachment  
To Contracts or Agreements Entered Into  
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,  
REHABILITATION ACT OF 1973, and any amendments thereto,  
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,  
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,  
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN  
MINORITY POPULATIONS AND LOW INCOME POPULATIONS (1994), and any amendments thereto  
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto,

**NOTIFICATION**

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1974 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 3555) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1973 (87 Stat. 3555) and the Americans with Disabilities Act of 1990 (42 USA 12101), the Age Discrimination Act of 1975 (42 USC 6101), the Regulation of the U.S. Department of Transportation (49 C.F.R., Part 21, 23 and 27) issued pursuant to such ACT, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively insure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following seven “Nondiscrimination Clauses”.

**CLARIFICATIONS**

When the term “consultant” appears in the following seven “Nondiscrimination Clauses”, the term “consultant” is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

**Nondiscrimination Clauses**

During the performance of this contract, the consultant, or the consultant’s assignees and successors in interest (hereinafter referred to as the ‘Consultant’), agrees as follows:

- (1) Compliance with Regulations: The consultant will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Parts 21, 23 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The consultant, with regard to the work performed by the consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion,

color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

- (3) Solicitations for Subcontractors, Including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made be the consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the consultant of the consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.
- (4) Information and Reports: The consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- (5) Employment: The consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- (6) Sanctions for Noncompliance: In the event of the consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
  - (a) withholding of payments of the consultant under the contract until the contractor complies, and/or
  - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (7) Disadvantaged Business Obligation
  - (a) Disadvantaged Businesses as defined in the Regulations, shall have a level playing field to compete fairly for contracts financed in whole or in part with Federal funds under this contract.
  - (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, religion, color, gender, or national origin in the award and performance of federally-assisted contracts.
  - (c) The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Federally-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

(8) Executive order 12898

- (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the state of Kansas and use such information in complying with this Order.

- (9) Incorporation of Provisions: The consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the consultant may request the State to enter into such litigation to protect the interests of the State.

CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid proposal that he or she shall require that the language of this certificate be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**PROPOSAL**

Page No. 1 of Pages 1

**C.D.L. ELECTRIC COMPANY**

Commercial and Industrial Wiring Traffic Railroad  
Signal Installations & Maintenance  
201 N JOPLIN ST  
PITTSBURG, KS 66762

(620) 231-6420 OR (800) 392-4942 FAX (620) 231-6421

PROPOSAL SUBMITTED TO Kansas & Oklahoma Railroad		PHONE (620) 231-2230	DATE 2/19/2008
STREET 315 W 3 <sup>rd</sup> St		JOB NAME RRP - 120	
CITY, STATE and ZIP CODE Pittsburg, KS 66762		JOB LOCATION Meridian Street Wichita, KS	
DATE OF PLANS		JOB PHONE	

We hereby submit specifications and estimates for:

A new control shelter with prediction type circuitry and flashing light/gate signals are proposed for this railroad/highway grade crossing signal location.

Signal assemblies will include automatic gates with 12" LED light units and signs mounted on new walk-out cantilever structures. Information provided by the Kansas Department of Transportation for this location indicate the requirements of two each 13-1/2' (14') cantilever structures, two each 25' gate arms, and one bell. As this grade crossing signal system is being upgraded as part of a road reconstruction project, it will be the responsibility of the state road contractor performing the construction of the new roadway to provide proper grade elevations for the signal assemblies we propose. After the installation of signal equipment is completed, dress stone and grass seed will be placed to properly complete the installation. If commercial AC power is not available within the proximity of the proposed control shelter location, then additional charges may be incurred for the connection of an AC meter service to the local utility. Any additional charges or expenses of this type will be the responsibility of others.

Any overhead or underground utilities that may interfere with the installation or operation of the proposed signal system must be relocated at the expense of others. CDL Electric, Incorporated will not be responsible for cost, labor or material required to relocate utilities at this location.

The price breakdown is as follows:

Material: \$151,625.00, Labor: \$69,862.00 Equipment: \$25,686.00 Tax \$ 18,043.63  
Total cost is \$265,216.63

We propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

Two hundred sixty - five thousand, two hundred sixteen dollars and .63/100 \$ (265,216.63)

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Payment to be made as follows:

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All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Acceptance of Proposal — the above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Authorized  
Signature: \_\_\_\_\_

Note:

This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days.

Signature: 27 S. O. H.

Signature: \_\_\_\_\_

## HIGHWAY/RAILROAD GRADE CROSSING SIGNAL SYSTEM

PROJECT: RRP-120  
 ROAD NAME: MERIDIAN ST.  
 LOCATION: WICHITA  
 STATE: KS  
 RAILROAD: K&O RR  
 AAR/DOT: 445 187 D

ITEM DESCRIPTION	QTY.	U/M
CONTROL SHELTER, ALUM., W/ FNDS, FAN, AC ITEMS & ACCESSORIES	1	EA
TRAIN DETECTION DEVICE (PREDICTOR)	1	EA
SOLID-STATE XING CONTROLLER, SSCCIII, 40 AMP	1	EA
SURGE PANEL ASSMBLY, FOR ST SSCCIII	1	EA
CHARGER, BATTERY NRS 12/20, 20 AMP	1	EA
CHARGER, BATTERY NRS 12/40, 40 AMP	1	EA
BATTERY, ELM-240, 250 A.H., EXIDE	1	EA
BATTERY, ELM-340, 363 A.H., EXIDE	6	CL
SHUNT, NARROW BAND	7	CL
ARRESTERS	3	EA
EQUALIZER	1	LT
RESISTOR, ADJUSTABLE, 15 WATT - VARIOUS SIZE	1	LT
TRAY, BATTERY, PLASTIC TYPE	1	LT
SHOP WIRING HDW., WIRE, TERM. EYES, TAGS, ETC.	4	EA
	1	LT
SERVICES, SHOP WIRING & TESTING SERVICES	1	LT
CANTILEVER STRUCTURE ASSY, 14' COMBO-TYPE, COMPLETE WITH: WCH 3590 SERIES GATE MECHANISM, 12" 2-WAY LED TIP LIGHTS, 12" 2-WAY LED MAST LIGHTS, WIRING HARNESS, JCT. BOX, RODENT SHROUD, BELL/PINNACLE MTG, 2 EACH "RR XING" SIGNS WITH MTG. HDW. ALL MTG. HDW FOR CANTILEVER AND GATE MECHANISM, GATE ARM COUNTERWEIGHT PACKAGE FOR 25' GATE ARM, BELL, ELECTRONIC 12V TYPE FOR 4"1/5" MTG. GATE ARM, HI STRIPING, RED/WHITE ALTERNATING, (ADJ) LIGHT KIT FOR GATE ARM 4" INCANDESCENT (10V-25W) FOUNDATION, POUR-IN-PLACE CANT. KIT CAST ADAPTER ASSY.	2	EA
	1	EA
	2	EA
	2	EA
	2	EA
BOND STRAND, S8 (3/16") TINNED SIGNAL STRAND W/ 4/64" BLACK INS.	1	LT
CLAMP, PVC CABLE KEEPER FOR 7/16" DIAMETER CABLE W/ 2HOLES	1	LT
GROUND CLAMP, FOR SIGNAL MAST (3" TO 12" DIA.) WITH 96" LEAD	2	EA
GROUND ROD, COPPER, 3/4" DIAMETER, 8' LENGTH - POINTED	6	EA
TRACK CONNECTOR "BOOTLEG", WELD-WEB, 3/16" DIA., W/ 1" TAB, 4"	1	LT
ONE-SHOT CABLE TO GROUND ROD CONNECTOR, 3/4" ROD TO #6 (3 CON)	6	EA
RETAINER CLIP, CABLE (3/8" MAX. DIA.) TO RAIL - PERPENDICULAR	1	LT
SLEEVE COMPRESSION TYPE, 3/16" BOND STRAN TO #6 SOLID	1	LT
BOND, WELD TYPE RAIL BOND	1	LT
CABLE, U.G. SIGNAL 7 COND. NO. 9 AWG SOLID	1	LT
CABLE, U.G. SIGNAL 5 COND. NO. 6 AWG SOLID	1	LT
CABLE, U.G. AC 3 COND. NO. 6 AWG SOLID (MIN.) - OR SIMILAR	1	LT
TRACK WIRE NO. 6 TW. PR. DUPLEX	1	LT
GUARD RAIL ASSY. - 1/2 CIRCLE ASSY.	1	LT
LOCK, HEX-HEAD	2	EA
MISC. MATERIAL FOR FIELD INSTALLATION	9	EA
	1	LT
ENGINEERING SERVICES / CIRCUIT PLANS / AS-IN-SERVICE PLANS		

**City Of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council

**SUBJECT:** Aquifer Storage and Recovery, Phase II - Design of River Intake Supplemental Agreement

**INITIATED BY:** Water Utilities

**AGENDA:** Consent

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**Recommendation:** Approve Supplemental Agreement No. 1 with Camp, Dresser & McKee, Inc., to do modeling to optimize the river intake and pumping station.

**Background:** On July 10, 2007, the City Council approved and instructed Staff to proceed with the projects for Phase II of the Equus Beds Aquifer Storage and Recovery Project. Phase II, which consists of five projects, will capture up to 30 MGD with direct surface water intake and treat the water to the level acceptable by the Kansas Department of Health and Environment. It will then be transmitted into recharge wells. The treatment plant and intake will be constructed assuming that a total of 60 MGD of direct surface water will be used, with up to 90 MGD possible by completion of the project. Phase II serves as the backbone for the future phases, thus some of the components in Phase II are more costly than they will be in future phases.

**Analysis:** On July 1, 2008, City Council approved a Professional Services Agreement with Camp, Dresser & McKee for the 30-percent design of the Aquifer Storage and Recovery (ASR) Phase II, river intake and pumping station. In working with the project, it has been found that additional modeling is required to address design concerns regarding sediment scour and deposition, river bank stability, pump intake sediment deposition, and pump intake hydraulics. These are included in the scope of Supplemental Agreement No. 1.

**Financial Considerations:** Supplemental Agreement No. 1 will not exceed \$278,600 to complete the scope of services, as outlined. Money is available in CIP W-549, Water Supply Plan, Pipelines and River Intake for the ASR, Phase II. Funding will come from Water Utilities Revenues and Reserves, and/or a future bond issue.

**Goal Impact:** The project will help ensure efficient infrastructure by assisting in the development of future water supplies.

**Legal Considerations:** The Law Department has approved the Supplemental Agreement as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

**Attachments:** Supplemental Agreement No. 1 with Camp, Dresser & McKee, Inc.

**SUPPLEMENTAL AGREEMENT NO. 1**

**TO THE**

**AGREEMENT FOR PROFESSIONAL DESIGN SERVICES**

**BETWEEN**

**THE CITY OF WICHITA, KANSAS  
HEREINAFTER CALLED "CITY"**

**AND**

**CAMP, DRESSER & MCKEE INC.  
HEREINAFTER CALLED "DESIGNER"**

**FOR**

**RIVER INTAKE AND RAW WATER PIPELINE**

**WITNESSETH:**

WHEREAS, there now exists a agreement between the two parties covering design service to be proved by the DESIGNER in conjunction with the implementation of the Integrated Local Water Supply Plan.

WHEREAS, Section VI.C of the above referenced Agreement provides that additional services not covered by the original scope of the agreement and additional compensation be paid on the basis of a Supplement Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the DESIGNER provide additional services required for the PROGRAM and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

**A. PROJECT DESCRIPTION**

See Attachment 1-A Supplemental Scope of Work. Total Fees not to exceed \$278,600.00.



**B. PAYMENT PROVISIONS**

Payment to the DESIGNER for the performance of the services described by this supplemental agreement shall be in accordance with Section VI of the original Agreement, and shall not exceed the amount designated in this Supplemental Agreement.

**C. PROJECT SCHEDULE**

The project schedule shall include no additional time to the original agreement work. However, the work described in paragraph A. above will be completed by August 1, 2009.

**D. PROVISIONS OF THE ORIGINAL AGREEMENT**

The parties hereunto mutually agree that all provisions and requirements of the existing Agreement, not specifically modified by this Supplemental Agreement, shall remain in full force and effect.

IN WITNESS WHEREOF, the CITY and the DESIGNER have executed this Supplemental Agreement No. 1 as of this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_.

CITY OF WICHTIA

By: \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

By: \_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM

By: Gary E. Rebenstorf  
Gary Rebenstorf Director of Law

CAMP, DRESSER AND MCKEE, INC.

By: Brenda R. Bann  
Title: Associate

# **Attachment 1A – Supplemental Scope of Work ASR Phase 2 City of Wichita, Kansas**

**October 24, 2008**

The following scope of work supplements the agreement between the City of Wichita (OWNER) and Camp Dresser & McKee Inc. (ENGINEER) dated July 1, 2008.

ENGINEER will contract with a firm specializing in computational fluid dynamics (CFD) modeling and physical hydraulic modeling (MODELER) to evaluate and optimize the performance of the Wichita Water Utilities ASR Phase 2 river intake and pumping station. Because this supplemental scope of services requires up to eight (8) months to complete and the Preliminary Design Services are scheduled to be complete in March 2009, this scope of work is predicated on CDM performing Final Design Services for the ASR Phase 2 River Intake and Pump Station.

The CFD and physical modeling effort will be used to address the following design concerns :

1. **Sediment Scour and Deposition:** Addition of the river intake and its operation will alter river sediment behavior upstream, downstream and at the structure. Excessive scour could lead to undermining of the intake structure foundation while excessive deposition could promote the movement of bed load onto the intake screens and into the pump intakes. The modeling effort will be used to evaluate sediment scour and deposition potential following construction of the river intake and develop cost effective design solutions to mitigate any adverse conditions noted. The intent is to optimize the configuration of the intake so that there is no significant change in the sediment behavior of the river.
2. **River Bank Stability:** The river intake will be a large structure situated within the existing river bank. River bank stability immediately upstream and downstream of the structure is a concern because:
  - a. The intake structure will be fabricated from concrete which has less flow resistance than the existing vegetated channel. This will result in higher bank flow velocities immediately downstream of the structure and increase the potential for bank erosion.
  - b. The intake structure will present a continuous flat face to the flow as opposed to the curved, irregular shape of the existing channel. This will also increase the bank flow velocities immediately downstream of the structure and increase the potential for bank erosion.

- c. A smooth transition between the existing river bank and the intake structure will be difficult to provide. Over time it is almost assured that offsets between the two will occur. Offsets will form local flow recirculation regions that will increase the potential for bank erosion.

The modeling effort will allow the designers to confidently address these bank stability issues by quantifying the flow parameters driving the various erosion mechanisms.

3. **Pump Intake Hydraulics:** The modeling effort will confirm that the pump intake hydraulics conform to the Hydraulic Institute Pump Intake Design Standards (ANSI/HI 9.8-latest edition). Adherence to the standards prevents the excessive occurrence of known adverse hydraulic phenomena such as vortices, flow pre-swirl, velocity variations, and entrained air at the pump intakes.
4. **Pump Intake Sediment Deposition:** The modeling effort will be used to develop an internal intake bay configuration that minimizes solids deposition and promotes the movement of all sediment size fractions through the system.

If the analyses determine that acceptable performance is not achieved, modifications will be developed to improve acceptable flow and sedimentation characteristics.

## **Task A.1 – Project Management/Technical Oversight**

ENGINEER shall perform management for the Supplemental tasks below. This work will include:

Task A.1. Coordinate with and direct MODELER as outlined in the following tasks.

## **Task A.2 – CFD Modeling**

MODELER will set-up and run a CFD model of the project to evaluate how the intake structure affects the river hydraulics and whether the hydraulic conditions are likely to generate adverse erosion or scour conditions in the river channel and/or on the river banks. The model will be run for the current river condition and with the intake structure in place to determine the impacts caused by the intake structure. The model will also be used to determine the boundary conditions for the physical model study.

The CFD modeling effort will be executed in three sub-tasks:

Task A.2.1 – Evaluation of Existing Little Arkansas River

Task A.2.2 – Evaluation of Proposed Intake Design

Task A.2.3 – Sedimentation within the Intake and Water Exchange with the River.

Successful completion of the modeling effort will require the ENGINEER's Project Manager and Technical Advisor to perform the following duties:

- Task A.2.4 Transmit river survey data in electronic format suitable for use in development of the CFD model.
- Task A.2.5 Transmit preliminary river intake design drawings.
- Task A.2.6 Review CFD model geometry as developed by MODELER for accuracy and completeness.
- Task A.2.7 Review computational grid density as developed by MODELER to ensure it is technically appropriate.
- Task A.2.8 Review of boundary conditions as developed by MODELER to ensure they are technically appropriate.
- Task A.2.9 Review model operating conditions as developed by MODELER for compatibility with modeling objectives.

### **Task A.3 – CFD Model Results Evaluation**

CFD models numerically solve the fundamental equations of fluid flow, known as the Reynolds Averaged Navier-Stokes (RANS) equations, across a computational grid conforming to the model domain. Solution of the equations provides flow field properties (e.g. velocity, pressure, etc.) at each computational node in the grid, which is estimated to be 1.5 million elements for this modeling effort. Therefore, it is necessary that the ENGINEER's Project Manager and Technical Advisor:

- Task A.3.1 Work with MODELER to identify most effective means of evaluating, comparing and presenting model results with respect to the design concerns noted above.
- Task A.3.2 Review CFD model run results as presented by MODELER and work with MODELER to identify problem areas regarding the erosion/scour potential of the river following installation of the intake structure.
- Task A.3.3 Work with MODELER and design team, as necessary, to identify intake structure design changes capable of mitigating any erosion/scour problem areas identified.
- Task A.3.4 Work with MODELER to identify appropriate boundary conditions for the physical model.
- Task A.3.5 Receive weekly updates from MODELER on progress and findings of modeling effort and coordinate findings with design team efforts.

## Task A.4 - Physical Modeling

MODELER will construct and operate a physical hydraulic model to evaluate the hydraulic conditions within the intake structure, as well as within the river channel. The model will be used to ensure that pump intake hydraulics conform to the Hydraulic Institute Pump Intake Design Standards (ANSI/HI 9.8-latest edition) and that the interior cells of the intake structure shall not be subject to significant solids deposition. The model boundaries will be as identified by both ENGINEER and MODELER using the results of the CFD model.

The physical modeling effort will be executed in three sub-tasks:

Task A.4.1 – Model Design and Construction

Task A.4.2 – Testing

Task A.4.3 – Formal Witness Test

Successful completion of the modeling effort will require the ENGINEER's Project Manager and Technical Advisor to perform the following duties:

- A.4.4 Review model design drawings as developed by MODELER for accuracy and completeness.
- A.4.5 Review model construction materials and techniques as identified by MODELER to ensure they are compatible with the modeling objectives.
- A.4.6 Review model instrumentation and documentation plan as developed by MODELER for completeness and accuracy.
- A.4.7 Review model test plan as developed by MODELER for compatibility with modeling objectives.
- A.4.8 Review model results as presented by MODELER and work with MODELER and design team to identify problem areas regarding design of the intake structure.
- A.4.9 As necessary, work with MODELER to identify intake structure design changes capable of mitigating any problems areas identified.
- A.3.10 Witness physical model testing as required to facilitate interpretation of model test results and ensure thoroughness of study.
- A.4.11 Work with MODELER to demonstrate study findings during a one-day formal witness test at the MODELER's laboratory (attendance allocation for ENGINEER includes the project manager, the intake/pump station design lead, and one (1) advanced technical resource). WWU and ASR Program Management will be given at least one month advance notice of the demonstration.
- A.4.12 Receive weekly updates from MODELER on progress and findings of modeling effort and coordinate findings with design team efforts.

### **Task A.5. - Report**

The MODELER shall prepare a draft and final report summarizing the CFD and physical modeling work. The report shall include a description of CFD model development; physical model fabrication, scaling theory, and instrumentation; a discussion of test results for both the CFD and physical model; tabulated test data; drawings of the model test arrangement; drawings of recommended design revisions; and color photos of pertinent flow phenomena. Instrument calibration data shall be included in an appendix. An electronic copy of the draft report shall be submitted to ENGINEER. ENGINEER will provide technical and content review of the draft report and will provide comments to MODELER for resolution. ENGINEER shall provide four copies of the final report to the OWNER upon receipt and resolution of comments.

### **Method of Payment**

The method of payment for services rendered by ENGINEER shall be progress payments based on the billing rates in the prime agreement with a not-to-exceed price of \$278,600.00.

### **Schedule**

ENGINEER shall submit copies of the final modeling report to the Owner within eight (8) months after approval of a supplemental agreement.

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council

**SUBJECT:** Revision to Management Agreement (Finney State Office Building) (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** Consent

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**Recommendation:** Approve the revised management agreement.

**Background:** On November 18, 2008, City Council approved an agreement between the State of Kansas and the City for management of the Finney State Office Building. The management agreement allows the State of Kansas to take over the management and operating responsibilities for the building. The State is now requesting certain revisions to the agreement to clarify the extent of its responsibilities.

**Analysis:** Beginning in 1990, the City of Wichita and Sedgwick County worked together to consolidate eleven State agencies into the Finney State Office Building located in the former Dillard's department store building at Broadway and William, using the Wichita Public Building Commission ("PBC") for conduit financing. The lease agreement between the State of Kansas and the PBC ("State Lease"), provides a schedule of building lease payments, operating lease payments and parking payments that are fixed for the full 20-year term of the lease. The City and County also entered into a "wrap-around" lease ("City/County Lease") which assigned to the City the responsibility for management for the facilities.

Under the terms of the State Lease, the City has the right to contract with a third party for management services. There is no provision that prevents the State from being the third party. City and State staff have negotiated an agreement including conditions that the City retains the right to inspect the facility at any time, including a joint inspection within 30 days of approval and annual inspections thereafter. The management agreement does not apply to the parking facilities; the City will retain the management of the parking garage and surface lot. The revisions to the agreement requested by the State specifically named the parking facilities as a separate item to clarify the document as the City will continue to provide management of the parking facilities for the State as has been the arrangement since 1994.

**Financial Considerations:** Payment of the operating and leasehold expenses by the State to the City will continue; however, the City will remit the operating portion back to the state on a monthly basis.

**Goal Impact:** Core Area and Neighborhood. Retention of major employers and tenants in the core area is important to the strength and revitalization of Wichita's downtown area.

**Legal Considerations:** The term of the agreement will coincide with the State Lease and terminate in 2014. The City Attorney's Office has approved the revised management agreement as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the revised management agreement for the Finney State Office Building and authorize the necessary signatures.

**Attachments:** Management Agreement

## **PROPERTY MANAGEMENT AGREEMENT**

THIS AGREEMENT is entered this \_\_\_\_\_ day of January, 2009 by and between The City of Wichita, Kansas (City) and the State of Kansas, Department of Administration, (State) for the management of the Wichita (Finney) State Office Building, 130 South Market, Wichita, Kansas 67202 (the WSOB); and

WHEREAS, on November 12, 1992 the Wichita Public Building Commission (WPBC) entered a Lease with the State of Kansas through the Secretary of Administration for the WSOB and nearby parking facilities (State Lease). Said State Lease has been amended twice. A copy of this lease is attached hereto as Exhibit A; and

WHEREAS, in Sec. 6.10 of the State Lease the WPBC (Landlord) is to be responsible for the management of the Parking Facility and may enter into contracts with others regarding the actual management of the Parking Facility; and

WHEREAS, in Sec. 8.1 of the State Lease the WPBC (Landlord) is to provide a property manager for the complex; and

WHEREAS, on March 1, 1993 the WPBC and The City of Wichita, Kansas and Sedgwick County, Kansas entered a Lease Agreement for additional space in the WSOB (City/County Wraparound Lease). A copy of this lease is attached hereto as Exhibit B; and

WHEREAS, in Sec. 7.1 of the City/County Wraparound Lease the WPBC assigned to the City its obligation in the State Lease to provide a property manager for the parking facility and office complex; and

WHEREAS, in Sec. 7.2 of the City/County Wraparound Lease it was stated that it shall be the City's duty and obligation under the above assignment to contract with, hire, and provide a property manager for the parking facility and office complex; and

WHEREAS, it is the City's intent through this Property Management Agreement to retain the State as the property manager for the WSOB, this agreement does not provide for the management of the parking facilities.



IT IS THEREFORE MUTUALLY AGREED as follows:

1. State agrees to provide property management services for the WSOB. The State shall be responsible for the day to day management and supervision of the WSOB. The State agrees to provide sufficient maintenance, repair, and decision-making personnel to promptly serve the occupants of the WSOB, and to maintain and protect the facility and its equipment. The State agrees to follow good engineering and maintenance practices which include cost effective measures in the repair, maintenance or replacement of equipment. These services include janitorial and elevator service, as well as the upkeep of heating, air conditioning, ventilation, plumbing, electrical, and other systems, to include boilers, air conditioning units, light bulb replacement, and the security lights. The State will also maintain the roof, windows, the exterior walls, pavement, sidewalks and all other items required for the use of the WSOB.

State further agrees to keep maintenance logs for major pieces of equipment, and to allow the City to inspect the premises at any time during regular business hours.

State agrees to pay for all utilities serving the WSOB and parking facilities, with the exception that the City will pay utilities for the Career Development Office.

The parties note there are not separate water meters for the parking garage where the Career Development Office is located. The City agrees to pay 75% of the metered water amount and the State agrees to pay 25%.

2. In consideration for the State's providing the services mentioned in paragraph 1 above, the City agrees to pay the State a monthly sum equal to the actual amount of operating expenses paid by the State pursuant to Sec. 5.6, 7.2, 7.3, 14.1 or any other applicable provision of the State Lease (Exhibit A). All payments to the

State will be due the 15<sup>th</sup> of each month following the payment of operating expenses by the State under the State Lease.

The State agrees that that portion of the operating expenses used by the WPBC or the City to pay premiums for insurance coverage required in the State Lease shall be invoiced by the City and paid by the State. The WPBC or the City will continue to be responsible for paying the premiums required for the insurance coverage called for in the State Lease.

The State further agrees that that portion of the operating expenses used by the WPBC or the City to pay for parking management services for the WSOB complex shall be invoiced by the City and paid by the State. The WPBC or the city will continue to be responsible for providing and paying for parking management services for the WSOB complex.

The State further agrees that the City may invoice the State for bank trustee fees paid by the City as required by the State Lease.

3. The City agrees to provide the State with copies of service contracts they currently maintain for the WSOB, and to allow the State to negotiate with their current vendors to provide continued service directly to the State. The City further consents to the assignment of any existing contracts to the State, should the State wish to continue the contractual services.
4. Both parties agree that this document does not change any provision of the attached leases, and they will remain in full force and effect.
5. The State agrees to comply with all applicable federal, state, and local laws and regulations related to the operation and maintenance of the WSOB, to include laws relating to environmental hazards.
6. The State shall promptly pay vendors providing supplies and services for the WSOB and shall not allow mechanics' liens to become an encumbrance on the

WSOB. Should the State dispute the underlying debt that forms the basis of a mechanics' lien, the State is authorized to contest said lien.

7. In the event performance of the State's duties and obligations under this Agreement are prevented or interrupted by causes beyond its control, the State's performance of its contractual obligations shall be excused during the period its ability to perform is prevented or interrupted.  
  
Should the WSOB be damaged or destroyed and the premises become uninhabitable, the State's duties under this agreement shall be excused until such time as the premises can again be occupied.  
  
The City shall have no obligation for payment to the State when the State's ability to perform is prevented or interrupted as discussed in this paragraph.
8. The term of this Agreement will coincide with the State Lease and remain effective until the State Lease expires. Either party may terminate this Agreement with six months advance written notice to the other party.
9. Both the State and the City agree to the following items:
  - a. They shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin or ancestry;
  - b. in all solicitations or advertisements for employees, they shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission;
  - c. if they fail to comply with the manner in which they report to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, they shall be deemed to have breached the present

contract and it may be canceled, terminated or suspended, in whole or in part;

- d. if they are found guilty of a violation of the Kansas act against discrimination under a decision or order of the commission which has become final, they shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part; and
- e. they shall include the provisions of subsections (a)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

Executed by the parties as follows:

THE CITY OF WICHITA, KANSAS

THE STATE OF KANSAS,  
DEPARTMENT OF ADMINISTRATION

\_\_\_\_\_  
By: Carl Brewer, Mayor

\_\_\_\_\_  
By: Duane A. Goossen,  
Secretary of Administration

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

#31001

## SECOND AGREEMENT REGARDING LEASE AND GUARANTY

**THIS SECOND AGREEMENT REGARDING LEASE AND GUARANTY** (this "Agreement") is made and entered into as of the \_\_\_\_ day of December, 2008 (herein the "Effective Date") by, between and among **B.I. INCORPORATED**, a Colorado corporation (herein "Tenant"), **WEBB ROAD DEVELOPMENT, INC.**, a Kansas corporation (herein "Landlord") and the **CITY OF WICHITA, KANSAS** (herein "City").

### WITNESSEH THAT:

**WHEREAS**, Community Solutions, Inc. (herein "CSI"), as tenant, and Landlord, as landlord, entered into one certain Commercial Lease dated May 31, 2002 (herein the "Lease") covering the property commonly known as 703 East 21<sup>st</sup> North, Wichita, Kansas (the "Leased Premises"), which Leased Premises are more fully described in the Lease; and

**WHEREAS**, in conjunction with the Lease, CSI, Landlord and City entered into one certain Lease Guaranty Agreement/Construction Funding dated May 31, 2002 (herein the "Guaranty") wherein, among other things, the City guaranteed certain payments under the Lease; and

**WHEREAS**, CSI assigned all of its right, title and interest in and to the Lease to Tenant; and

**WHEREAS**, in connection with such assignment, CSI, Tenant, Landlord and City entered into one certain Agreement Regarding Lease and Guaranty (herein the "First Amendment") dated December 13, 2005, wherein, among other things, the Lease was modified, Landlord and the City consented to the assignment of the Lease from CSI to Tenant and the City reaffirmed its Guaranty; and

**WHEREAS**, the Kansas Department of Corrections (herein "DOC") has notified Tenant that DOC is, effective January 15, 2009, terminating the "DOC/BI Contract" (defined in the First Amendment); and

**WHEREAS**, Tenant and Landlord each have the right to terminate the Lease in the event the DOC/BI Contract is terminated; and

**WHEREAS**, Tenant desires that the Lease continue in full force and effect, notwithstanding the termination of the DOC/BI Contract, so that Tenant may continue to perform its obligations under one certain Services Agreement dated June 1, 2006, entered into by and between Tenant and the Board of County Commissioners of Sedgwick County, Kansas (herein the "Sedgwick/BI Contract"); and

**WHEREAS**, Landlord is agreeable to allowing the Lease to continue provided that the Lease is amended in certain respects and that the City agrees to continue its liability under the Guaranty; and

**WHEREAS**, the City is willing to continue the Guaranty and agrees to the amendment to the Lease hereinafter set forth.

**NOW THEREFORE**, in consideration of the foregoing recitations, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Amendment of Article 39.** BI and Landlord agree that Article 39 of the Lease, as previously amended by the First Amendment, is hereby amended and restated in its entirety to read as follows:

## **"ARTICLE 39**

### **Right of Early Termination**

Landlord and Tenant acknowledge that this Lease is entered into for the purpose of enabling Tenant to perform under the terms of a contract with the Board of County Commissioners of Sedgwick County, Kansas (herein "**Sedgwick County**"), as set forth in that Services Agreement dated June 1, 2006 (herein the "**Services Agreement**"), which Services Agreement calls for the operation of a day reporting center in Wichita, Kansas. The Services Agreement was amended pursuant to: (i) one certain Amendment to Services Agreement dated December 14, 2006 (herein the "**First Amendment**"); (ii) one certain Addendum to Services Agreement dated December 19, 2007 (herein the "**First Addendum**"); (iii) one certain letter agreement dated March 18, 2008 (herein the "**Letter Agreement**"); and (iv) one certain Second Addendum to Services Agreement dated June 17, 2008 (herein the "**Second Addendum**"). The Services Agreement, First Amendment, First Addendum, Letter Agreement and Second Addendum shall be referred to herein collectively as the "**Sedgwick/BI Contract**". A copy of the Sedgwick/BI Contract is attached hereto as Exhibit A. If the Sedgwick/BI Contract is terminated, Tenant will no longer receive the funds necessary to enable Tenant to perform its obligations under this Lease. Therefore, Landlord and Tenant agree that: (i) within 30 days after the date of such termination, Tenant may terminate this Lease without assessment of penalties or damages of any sort whatsoever by giving Landlord written notice of such termination; and (ii) within 30 days of the date that Landlord obtains actual knowledge of such termination, Landlord may terminate this Lease without assessment of penalties or damages of any sort whatsoever by giving Tenant written notice of such termination. Tenant agrees to give Landlord notice of any cancellation or termination of the Sedgwick/BI Contract within 10 days after Tenant's receipt of written confirmation thereof from Sedgwick County. A termination of this Lease in accordance with the provisions of this Article 39 shall be effective as of the last day of the month in which the notice of termination is received by the other party. In the event of such termination, the rents and other charges under this Lease shall be paid by Tenant to Landlord through the effective date of termination and the parties shall be relieved of their respective rights and obligations set forth in this Lease."

2. **City Consent and Reaffirmation.** City hereby consents to the amendment of the Lease set forth above. City hereby reaffirms its obligations under the Guaranty, according to its terms, including, without limitation, Section 14 thereof relating to the Cash Basis Law and Budget Law, and agrees that the Guaranty shall continue according to its terms, as amended.

3. **Amendment of Guaranty.** City, Landlord and Tenant agree that the Guaranty is hereby amended and modified to conform to the provisions of this Agreement including, without limitation, the substitution of the Sedgwick/BI Contract in the place and stead of all references in the Guaranty to the "Center Operating Agreement" (defined in the Guaranty). If any of the terms or provisions of the Guaranty, as previously amended by the First Amendment, conflict with the terms or provisions of this Agreement, the terms and provisions of this Agreement shall control.

4. **Captions.** The Section headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Lease. Whenever herein the masculine gender is used, the same shall include the feminine and neuter gender.

5. **Miscellaneous.** This Agreement has been negotiated by the parties hereto and shall not be deemed to have been prepared only by Landlord, Tenant or City, but by all equally. Wherever in this Lease any printed portion or part hereof has been stricken, whether or not any relative provisions have been added, this Lease shall be read and construed as if the material stricken was

never included herein, and no implication shall be drawn from the text of the material so stricken, which would be inconsistent in any way with the construction or interpretation which would be appropriate if such material were never contained herein.

6. **Amending Effect upon Lease.** The Lease, as previously amended by the First Amendment, is hereby amended to conform to the provisions of this Agreement. If any of the terms or provisions of the Lease, as previously amended by the First Amendment, conflict with the terms or provisions of this Agreement, the terms and provisions of this Agreement shall control.

7. **Counterparts.** To facilitate execution, this Agreement may be executed in as many counterparts as maybe convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

8. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and the successors and permitted assigns respectively of the parties hereto.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed as of the Effective Date.

**"CITY"**


**CITY OF WICHITA, KANSAS**  
By Direction of City Council

By: \_\_\_\_\_  
Carl Brewer, Mayor

Attest

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form

  
\_\_\_\_\_  
Gary E. Rebenstorf,  
Director of Law

**"TENANT"**

**B.I. INCORPORATED**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**"LANDLORD"**

**WEBB ROAD DEVELOPMENT, INC.**

By: \_\_\_\_\_  
Johnny Stevens, President

## SERVICES AGREEMENT

by and between:

SEDGWICK COUNTY, KANSAS  
and  
BI INCORPORATED

THIS AGREEMENT made and entered into this 1<sup>st</sup> day of June, 2006, by and between Sedgwick County, Kansas (hereinafter referred to as "County"), and BI Incorporated, a Colorado corporation that is registered to transact business in the State of Kansas (hereinafter referred to as "Contractor").

### WITNESSETH:

WHEREAS, County desires to select a qualified firm to provide a Day Reporting Center (DRC) in Sedgwick County that will offer highly structured non-residential programs of intervention, supervision, and programming to clients in need of structure and case management services; and

WHEREAS, pursuant to a request by County (RFP No. 06-0008), Contractor has submitted a proposal to provide said DRC services; and

WHEREAS, County desires to engage Contractor to perform said services; and

WHEREAS, County and Contractor desire to state the terms and conditions under which Contractor will provide said services.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto agree as follows:

1. **Purpose.** Contractor will provide those Day Reporting Center services as detailed in **Appendix B** (Statement of Work), attached hereto and incorporated herein as a part of this Agreement (the "Services"), and as requested in County's RFP 06-0008, which is incorporated herein by reference. Contractor shall provide the services as outlined in its response to said RFP, dated March 10, 2006, and which is also incorporated herein by reference. The parties acknowledge that Contractor will perform said Services as an independent contractor. The parties agree that this Agreement shall be monitored by the Sedgwick County Department of Corrections (hereinafter referred to as "Corrections") as set forth in Corrections' Policy & Procedures Manual Policy No. 1.410, attached hereto as **Appendix D** and incorporated herein as a part of this Agreement.

2. **Term.** The initial term of this agreement shall be for one (1) year from May 1, 2006, through April 30, 2007. This Agreement may then be renewed at County's option for four (4) successive terms of one (1) year each.

3. **Compensation.** County agrees to pay and Contractor agrees to accept as compensation for the Services provided pursuant to this agreement the compensation amount set forth in **Appendix B**.

#### 4. **Termination of Contract.**

a. **Termination for Breach or Default.** Either Party may immediately terminate this Agreement, by giving written notice of termination to the other, upon the occurrence of any of the following events:

- (1) A Party breaches any of its material obligations under this Agreement and does not cure the breach within thirty (30) calendar days (or such other time period, not less than thirty (30) calendar days, as may be reasonably



agreed by the Parties under the circumstances) after the non-breaching Party gives written notice describing the breach in reasonable detail.

- (2) A Party dissolves or liquidates or otherwise discontinues substantially all of its business operations, ceases to carry on business as a going concern, becomes the object of voluntary or involuntary bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets.
- (3) County fails to pay to Contractor, within forty-five (45) calendar days after Contractor makes written demand therefore through the invoice process, any past-due amount payable under this Agreement that is not the subject of a good faith dispute.
- (4) Engages in fraud, criminal conduct, or willful misconduct, or breaches the confidentiality obligations under this Agreement.

b. *Termination for Convenience.* This contract may be terminated in whole or in part by County upon thirty (30) days written notice to the other party, stating the reason for the termination and the effective date of the termination. A partial termination shall also be specified in writing by the terminating party and shall not be effective unless and until the other party has given its written assent thereto. When this contract is terminated, Contractor shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible. County shall allow full credit to Contractor for the non-cancelable obligations properly incurred by Contractor prior to notice of termination. Whether this contract is canceled by County or Contractor as provided herein, Contractor shall be paid for work satisfactorily completed.

c. *Payment Calculation upon Termination.* In the event either party announces an intention to terminate this contract, the other party shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible. In the event of termination under this agreement by either party, any amount owed Contractor will be calculated based solely upon the fair value to the County provided by Contractor to the point of termination.

d. In the event of termination, such information prepared by Contractor to carry out this contract, including data, studies, surveys, records, drawings, maps and reports shall, at the option of County, become the property of the County and be immediately turned over to the County. Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

e. Notwithstanding the above, Contractor shall not be relieved of liability to County by virtue of any breach of this contract by Contractor and County may withhold any payments to Contractor for the purpose of set off until such time as the exact amount of damages due County from Contractor are determined.

5. **Notification.** Notices under this Agreement shall be addressed as follows:

County: Sedgwick County Department of Corrections  
Attn: Mark Masterson, Director  
700 S. Hydraulic  
Wichita, KS 67211

and

Sedgwick County Counselor's Office  
Attn: Contract Notification  
Sedgwick County Courthouse  
525 N. Main, Suite 359  
Wichita, KS 67203-3790

Contractor: BI Incorporated  
Attn: Laurent Lepoutre  
6400 Lookout Road  
Boulder, CO 80301  
Phone: 800-241-2911  
Fax: 303-218-1250

The effective date of any notice under this Agreement shall be the date of receipt by the addressee. The failure of either party to give notice of default, or to strictly enforce or insist upon compliance with any of the terms or conditions of this Agreement, the waiver of any term or condition of this Agreement, or the granting of an extension of time for performance shall not constitute the permanent waiver of any term or condition of this Agreement. This Agreement and each of its provisions shall remain at all times in full force and effect until modified by the parties in writing.

6. **Indemnification.** Contractor agrees and covenants that it will hold and save harmless and indemnify County, its elected and appointed officials, officers, agents, servants, employees, volunteers and others working on behalf of County, from and against any and all third party claims, demands, loss, or lawsuits, including all costs associated therewith, for any damages, expenses, costs and liabilities that may be awarded by final judgment of a court of competent jurisdiction in the United States, against County or Contractor by reason of bodily injury and/or death, and/or tangible property damages, which arises in connection with the work to be performed hereunder by Contractor or of any employee or agent of Contractor, to the degree such indemnification is allowed by law, except to the extent attributable to the acts or omissions of the indemnified party. The foregoing indemnifications will be provided only if County promptly provides Contractor with written notice of any covered claim and County allows Contractor the opportunity to control the defense and any related settlement negotiations, with full cooperation of County.

7. **Governing Law.** This contract shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this contract will be brought before a court of competent jurisdiction in the State of Kansas.

8. **Insurance.** Contractor agrees to maintain the following minimum limits of insurance coverage throughout the term of this agreement:

<b>Worker's Compensation:</b>	
Applicable State Statutory Employer's Liability	
<b>Employer's Liability Insurance:</b>	\$100,000.00
<b>Contractor's Liability Insurance:</b>	
Form of insurance shall be by a Comprehensive General Liability and Comprehensive Automobile Liability	

<b>Bodily Injury:</b>	
Each Occurrence	\$500,000.00
Aggregate	\$500,000.00
<b>Property Damage:</b>	
Each Occurrence	\$500,000.00
Aggregate	\$500,000.00
<b>Personal Injury:</b>	
Each Person Aggregate	\$500,000.00
General Aggregate	\$500,000.00
<b>Automobile Liability – Owned, Non-owned, and Hired:</b>	
Bodily Injury Each Person	\$500,000.00
Bodily Injury Each Occurrence	\$500,000.00

Liability insurance coverage indicated above must be considered as primary and not as excess insurance. Contractor shall furnish a certificate evidencing such coverage, with County listed as an additional insured, which shall be delivered to the Office of the Sedgwick County Counselor prior to the start of work in order to review compliance with this Section. Said certificate shall contain a provision that coverage afforded under the policies will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives written notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A-VIII and licensed to do business in the State of Kansas. It is the responsibility of Contractor to ensure that any and all approved subcontractors meet the minimum insurance requirements.

9. ***Incorporation of Appendices.*** Appendix A (General Contractual Provisions), Appendix B (Statement of Work), Appendix C (Criminal History/Background Check Certification), Appendix D (Sedgwick County Department of Corrections Policy & Procedures Manual Policy No. 1.410), and Appendix E (Copy of Contractor's lease documents covering the property located at 703 E. 21<sup>st</sup> Street North, Wichita, Kansas), are attached hereto and made a part hereof as if fully set out herein.

10. ***Entire Agreement.*** This Agreement and the Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms contained in an Appendix or other attachment, the terms of this Agreement will control.

11. ***Order of Precedence.*** In the event of conflict between the terms of the documents, the order of precedence shall be: (i) the Agreement; (ii) Appendix A; (iii) Appendix B; (iv) Contractor's response to County's RFP 06-0008 (dated "March 10, 2006").

12. ***Authority.*** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

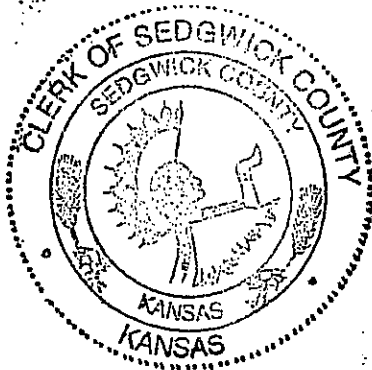
[APPROVALS ON FOLLOWING PAGE]

Witness our signatures the day and year first above written.

BI INCORPORATED



Name: \_\_\_\_\_  
Title: **Michael E. Hankerd**  
**Corporate Controller**



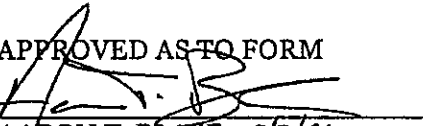
SEDGWICK COUNTY, KANSAS



IRIS BAKER, Purchasing Director

ATTEST: 

DON BRACE, County Clerk

APPROVED AS TO FORM  


AARON T. BLASE 5/3/06  
Assistant County Counselor  
net:\shared\wpdat\purchas\

## **APPENDIX A GENERAL CONTRACTUAL PROVISIONS**

### **1. AUTHORITY TO CONTRACT.**

a. **Affirmation of Legal Authority.** Contractor assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the signing of this contract, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Contractor to act in connection with the application and to provide such additional information as may be required.

b. **Required Documentation.** Domestic (Kansas) corporations shall 1) furnish evidence of good standing in the form of a Certificate signed by the Kansas Secretary of State. Foreign (non-Kansas) corporations shall furnish evidence of authority to transact business in Kansas, in the form of a Certificate signed by the Kansas Secretary of State; and 2) a copy of the Corporation Resolution evidencing the authority to sign the Contract Documents, executed by the Corporation's Secretary or Assistant Secretary.

### **2. INDEPENDENT CONTRACTOR RELATIONSHIP.**

It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor and employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, and employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor.

### **3. PERSONNEL.**

a. **Qualified Personnel.** Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any other contractual relationship with County. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this contract.

b. **Minimum Wages.** Contractor will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.

c. **Employee Conflict of Interest.** Contractor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

d. **Contractor's Safeguard.** The parties to this agreement recognize that entities or persons providing government-funded services to the public are the subject of public scrutiny. Contractor agrees to use criminal, employment, and other legal background checks upon employees providing services pursuant to this agreement.

### **4. PROHIBITION OF CONFLICTS OF INTEREST.**

a. **Interest of Public Officials and Others.** No officer or employee of County, no member of its governing body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this contract which affects such person's personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested; nor shall any officer or employee of County or any member of its governing body or other public official have any interest, direct or indirect, in this contract or the proceeds thereof.

b. **Interest of Contractor.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract.

c. **Employee Conflicts.** Situations in which 1) an employee of the County shall also be an employee of Contractor at time of agreement, 2) an employee of Contractor seeks additional/alternate employment with County during pendency of agreement, or 3) an employee of County seeks additional/alternate employment with Contractor during pendency of agreement, shall require written notice to the County at the addresses listed in the agreement. The County shall make every effort to assure that such employees do not have any authority to approve 1) grant funds, 2) agreements, or 3) affiliate status to the Contractor or Contractor's competitors.

d. **Notice to Bidders.** Requests for proposal or invitations for bid issued by Contractor to implement this contract will provide notice to prospective bidders that County's conflict of interest provision is applicable in that contractors who develop or draft specifications, requirements, statements of work and/or RFP's for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

## **5. FUNDING.**

a. **Reprogramming of Funds.** It is understood and agreed that in the event the amount of funds County actually receives from the County mill levy is less than anticipated, County may decrease the total compensation and reimbursement to be paid hereunder.

b. **Inability to Perform Contract.** It is further understood and agreed that in the event Contractor's rate of progress on this contract is leading to underspending due to inability to provide services at planned levels, County may decrease the total compensation and reimbursement to be paid hereunder or withdraw from the agreement.

c. **Cash Basis and Budget Laws.** The right of the County to enter into this agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

d. **Non-Supplanting Existing Funds.** Contractor assures that grant funds made available under County mill levy grants and administered under this contract will not be used to supplant existing funds or other funding sources, but will be used to increase the amounts of those other funding sources.

## **6. RECORDS, REPORTS AND INSPECTION.**

a. **Documentation of Costs.** All costs incurred by Contractor for which Contractor purports to be entitled to reimbursement shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible to both parties to this agreement.

b. **Maintenance of Records.** Except as otherwise authorized by County, Contractor shall retain such documentation for a period of three (3) years after receipt of the final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

c. **Reports.** During the term of this contract, Contractor shall furnish to County, in such form, as County may require, such statements, records, reports, data and information as County requests pertaining to matters covered by this contract. Payments to Contractor will be withheld by County if Contractor fails to provide all required reports in a timely and accurate manner, until such time as all reports are furnished to County. Incomplete reports may be considered a breach of this contract.

d. **Contractor's Purchasing Procedure.** Contractor certifies that it does not practice any form of discrimination based on race, ethnic origin, gender or religion or disability in its purchasing procedures. Contractor agrees to make available a written description of its purchasing procedures if requested by County.

e. **Confidentiality.** Both parties will comply with the provisions of State and federal regulations in regard to confidentiality of eligible participant records.

**7. METHOD OF BILLING AND PAYMENT.**

a. **Billing Procedures.** Contractor agrees that billings and payments under this contract shall be processed in accordance with established budgeting, purchasing and accounting procedures of Sedgwick County, Kansas. Subject to the maximum amount of compensation prescribed on page 1 at paragraph 3 of this contract, payment shall be made after receipt of billing, and the amount of payment shall not exceed the maximum amount allowed by this contract.

b. **Support Documentation.** Billing shall be supported with documentation required by County including, but not necessarily limited to, that documentation described in Section Six (6) above.

c. **Reimbursement Restrictions.** Payments shall be made to Contractor only for items and services provided to support the contract purpose when such items and services are specifically authorized by this agreement. County reserves the right to disallow reimbursement for any item or service billed by Contractor if County believes that such item or service was not provided to support the contract purpose or was not authorized by the contract.

d. **Pre-disbursement Requirements.** Contractor must provide to County the documentation required pursuant to this contract prior to any disbursements being made by County to Contractor.

e. **Mailing Address.** Payments shall be mailed to Contractor's address as set forth herein.

**8. LICENSES AND PERMITS.**

Contractor shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state or local authority for carrying out this contract. Contractor shall notify County immediately if any required license, permit, bond or insurance is canceled, suspended or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate revocation by County, in its discretion.

**9. HANDICAPPED ACCESSIBILITY.**

Contractor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Contractor shall also comply with applicable requirements of the Americans With Disabilities Act (ADA) which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

**10. ASSIGNMENT.**

Neither this contract nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.

**11. MODIFICATION.**

This agreement may not be modified except in writing signed by the parties hereto. To provide necessary flexibility for the most effective execution of this contract, whenever both County and Contractor mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

**12. SUBCONTRACTING.**

No material portion of the work or services covered by this contract shall be subcontracted without the prior written approval of County. All approved subcontracts must conform to applicable requirements set forth in this contract and in its appendices, exhibits and amendments, if any.

**13. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.**

Contractor shall comply with all applicable local, state and federal laws and regulations, in carrying out this contract, regardless of whether those legal requirements are specifically referenced in this agreement.

#### **14. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.**

In carrying out this contract, Contractor shall deny none of the benefits or services of the program to any eligible participant pursuant to K.S.A. 44-1001 et seq.

a. Contractor shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, disability, national origin, or ancestry.

b. In all solicitations or advertisements for employees, Contractor shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.

c. If Contractor fails to comply the provisions of K.S.A. 44-1031, requiring reports to be submitted to the Kansas Human Rights Commission when requested by that Commission, Contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part, by County.

d. If Contractor is found guilty of a violation of the Kansas act against discrimination under a decision or order of the Kansas Human Rights Commission which has become final, Contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part by County.

e. Contractor shall include the provisions of paragraphs a. through d. inclusively of this section in every subcontract or purchase order made pursuant to this Agreement, so that such provisions will be binding upon such subcontractor or vendor.

f. The provisions of this section shall not apply to a contract entered into by a contractor who: 1) employs fewer than four employees during the term of this contract; or 2) whose contracts with the County cumulatively total \$5,000.00 or less during the fiscal year of the County pursuant to K.S.A. 44-1031(c).

#### **15. CONFIDENTIAL INFORMATION.**

The parties agree that this Agreement and the relationship it represents requires the exchange of confidential information over the course of normal business. Confidential information is information not generally known by non-party personnel, including but not limited to, the financial, marketing, and other proprietary business information. Neither party shall use, duplicate or divulge to others any confidential information disclosed to that party by the other party in the course of performance of this Agreement without first obtaining written permission from that party, to the extent allowed by law.

In the event the receiving party is required by law, regulation or a valid and effective subpoena or order issued by a court of competent jurisdiction or by a governmental body having proper jurisdiction, to disclose any of the Confidential Information disclosed by the other party, the receiving party will promptly notify the other party in writing of the existence, terms and circumstances surrounding such required disclosure so that the disclosing party may seek a protective order or other appropriate remedy from the proper authority. The receiving party agrees to cooperate with the disclosing party in seeking such order or other remedy. The receiving party further agrees that if it is required to disclose Confidential Information of the other party, it will furnish only that portion of the Confidential Information that is legally required to be furnished and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded such Confidential Information. The parties specifically acknowledge that the Confidential Information may be subject to disclosure under the Kansas Open Records Act, K.S.A. 45-215, et seq.

#### **16. HIPAA COMPLIANCE.**

If County's confidential information is subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and amendments thereto (the "Act"), both parties agree to perform all commerce described herein in accordance with HIPAA laws and regulations. As part of regulatory compliance under the Act, the parties may need to enter into a "Business Associate Agreement" in order to legally share confidential patient information. If required, both parties agree to work towards a mutually satisfactory Business Associate Agreement.

#### **17. WARRANTIES AND REPRESENTATIONS.**

Contractor warrants and represents that it will perform any and all services hereunder in a professional and workmanlike manner.



**18. SAVINGS CLAUSE.**

If any particular provision of the Agreement to which this Appendix is attached, or of this Appendix or of any other Appendix that is also attached to said Agreement, or a provision of any document that is referenced by said Agreement, shall be determined to be invalid or unenforceable, that determination shall not affect the other provisions which shall be construed in all respects as if the invalid or unenforceable provision were omitted.

**19. PURCHASE ORDERS.** The parties acknowledge and agree that any purchase order issued by County, in accordance with this Agreement, is intended only to establish payment authority for the County's internal accounting purposes. No purchase order shall be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included in the County's purchase order will have any force or effect.

## **APPENDIX B STATEMENT OF WORK**

Contractor shall establish a Day Reporting Center ("DRC") to provide a continuum of intense supervision, monitoring, treatment, and educational services for program participants with the objectives of reducing recidivism, decreasing the Sedgwick County Adult Detention Facility population and increasing public safety. The DRC must meet local, state, and federal guidelines and laws, as applicable. The following are the minimum requirements for the Day Reporting Center:

1. ***Day Reporting Center ("DRC").*** The DRC is intended to provide alternative options for the municipal and district courts, which are designed to divert individuals from incarceration in the detention facility. The goals of the DRC are to reduce recidivism of offenders, reduce the population of the Adult Detention Facility and maintain public safety. Individuals will be court-ordered into appropriate treatment and supervision programs, and the DRC is a viable option for the municipal and district courts for the following participants:
  - a. Individuals currently sentenced on misdemeanor charges whose sentence can be modified to offer release from the Adult Detention Facility.
  - b. Individuals who commit probation violations, as an alternative to serving the maximum jail time in the Adult Detention Facility.
  - c. Individuals who have committed misdemeanor probation violations.
  - d. Individuals who have committed felony probation violations.
  - e. Individuals who have failed to appear for a probation violation hearing.
  - f. Individuals sentenced for either misdemeanor or felony charges.
  - g. Individuals sentenced for traffic violations.
  - h. Individuals sentenced by drug court.
  - i. Individuals referred by the district or municipal courts as a condition of bond.
2. ***Facility Location.***
  - a. The DRC facility ("Facility") shall be located and operated in Wichita, Kansas. Contractor is responsible for locating the site, either by lease or fee ownership.
  - b. Facility shall be on a single site selected by Contractor and approved by the County. Facility should not be near or adjacent to day care centers, public parks and recreation areas, taverns or private clubs, adult entertainment facilities, public schools or residences for individuals suffering from developmental physical or mental disabilities. The facility selected by the contractor is subject to final approval by County.
  - c. Contractor shall provide County with a copy of an executed lease on an approved facility sufficient to lease the facility through April 30, 2007. [Note: A copy of Contractor's lease documents (Commercial Lease, Lease Guaranty Agreement/Construction Funding, and Agreement Regarding Lease and Guaranty) are attached hereto as Appendix E.]
  - d. Facility shall be of adequate size to accommodate the participant levels, including necessary support services and utilities. Facility should provide private counseling rooms, group meeting areas, classrooms, rest room facilities, multipurpose space, reception area, office space, conference room, and respite areas where participants can eat and/or relax. Contractor will be required to provide all Furnishings, Fixtures & Equipment to operate the facility.
  - e. Facility shall conform to all applicable zoning and building codes, including Americans with Disabilities Act (ADA) requirements.

- f. Facility shall have a primary and secondary entrance providing all weather ingress/egress from two directions to publicly maintained roads.
- g. Facility shall be readily available to public transportation.
- h. Facility shall provide participant programming from 8:00 a.m. through 8:00 p.m., Monday through Friday and from 8:00 a.m. through 4:00 p.m. on Saturday. The facility will be closed on Sundays, and all state holidays as observed by state agencies. The facility will also be staffed at all other hours necessary to maintain monitoring functions. Participants will be expected to be in the DRC programming (i.e., on-site or at an approved location) per their individual treatment plan during the hours of facility operation.

As used herein, the term "*approved location*" shall mean

- i. the participant's employment;
  - ii. the participant's employment;
  - iii. the participant's home;
  - iv. a community service site (an approved location for completion of community service hours);
  - v. a community programming site (an approved location for receipt of needed services);
  - vi. job search and related activities; and
  - vii. other approved activities per the DRC staff.
- i. Facility shall provide adequate parking for participants with their own transportation.
  - j. In the event Contractor is unable to secure an approved location for Facility, it may terminate this Agreement upon written notice to County.

3. ***Program Placement.***

- a. Courts (district courts and municipal courts) will determine which participants will be selected and referred to programming.
- b. Contractor will screen participants referred to the program for acceptability and inform Court staff of the decision for placement within three (3) business days of Contractor's receipt of a referral. Any participant placement rejections shall be reported to the appropriate Court representative for the case and to the County contract administrator.
- c. Courts will determine final programming and/or program length on an individual basis.
- d. Contractor will report any violations to the Courts, as ordered by the courts at the time of sentencing, or through general instructions by the Courts.

4. ***Program Components.*** Contractor must provide a programming curriculum to include the following:

- a. ***Case Management.***
  - i. Evaluation and Assessment of Participant(s)
  - ii. Monitoring of Participant(s)

- (1) Home Visits
- (2) House Arrest
- (3) Employment Verifications and Visits
- (4) Electronic Monitoring (i.e. GPS, Ankle Bracelets)
- (5) Appointment Verification
- (6) Office Visits

b. *Treatment Services.*

- i. Substance Abuse Outpatient Counseling/Treatment & Relapse Prevention (alcohol and/or drug testing should be performed to detect use)
- ii. Anger and Violence Management
- iii. Stress Management
- iv. Behavior Modification
- v. Cognitive Restructuring Skills
- vi. Counseling
  - (1) Individual
  - (2) Group
  - (3) Mental Health
  - (4) Family
- vii. Educational Services
- viii. Life Skills
- ix. Literacy Programs
- x. GED Classes
- xi. HIV/AIDS Education
- xii. Parenting Classes
- xiii. Family Re-integration
- xiv. Financial Planning and Budgeting

c. *Vocational Services.*

- i. Skills Training
- ii. Career Development

d. *Reporting.*

- i. Substance Abuse Testing
- ii. Participant Progress to Courts

5. **Medical.** Contractor shall ensure that at least one staff member will be present on each shift at the site who has been trained in emergency first-aid procedures, including but not limited to cardiopulmonary resuscitation, and Contractor shall further insure that the site has first aid equipment approved by a recognized health authority available at all times. Contractor shall not deny participants access to medical services.

6. **Program Accountability.**

- a. Contractor shall provide an orientation to the program and referral to community services as needed to meet the specialized service needs of clients beyond the level provided by this contract, and/or to facilitate transition from the program to the community.

- b. Contractor shall produce and provide to County by 5:00 o'clock p.m. a roster of all active clients as of 7:00 o'clock a.m. that day.
- c. Contractor must maintain a daily attendance log that indicates arrival times of all participants.
- d. The Courts and County will work directly with Contractor to insure appropriate referrals to outside resources and monitor clients' progress and level of involvement in the program components.
- e. County may provide a contract monitor to ensure compliance with the contract, achievement of program objectives, and may provide an outside agency to review the DRC program.
- f. DRC director will provide outcome information as requested by the Courts or County in the formats they may request.

**7. *Evaluation / Participant Monitoring.***

- a. The Courts shall designate contact persons to meet regularly (i.e. weekly, bi-weekly) with the DRC program director for evaluation purposes. The purpose of these meetings will be for the staff to discuss the status and progress of the participants referred to the program. Either party may specifically request such meetings at any time.
- b. The DRC shall monitor the participants activities while in the center with attendance verification, verification of appointments and counseling, treatment, job search, class attendance, etc.
- c. The DRC shall document the participants' behavior, attitude, and adjustment issues and report them during routine meetings.
- d. The DRC shall maintain progress records on all participants.

**8. *Reports.***

- a. Contractor shall provide a template for the collection of data. The data shall be collected in an electronic fashion by the Contractor and delivered to the County in a manner and frequency prescribed by the County.
- b. Contractor shall provide written monthly reports to County detailing number of clients, client names, service dates, schedule of activities, and any other services provided during a given month.
- c. Contractor shall produce and provide to County by 5:00 o'clock p.m. a roster of all active clients as of 7:00 o'clock a.m. that day.

- 9. *Compensation.*** County agrees to pay and Contractor agrees to accept as compensation for the Day Reporting Center Services provided pursuant to this agreement the following per diem fees, based on monthly average daily population at the facility. These fees includes all of Contractor's time, labor and equipment, travel, and all other expenses associated with the provision of Services, and shall be the sole compensation rendered to Contractor hereunder. Contractor agrees to invoice County on a monthly basis, by the 10<sup>th</sup> day of the month immediately following the month Services were rendered. Each invoice submitted by Contractor shall be paid by County within forty-five (45) days of receipt. The parties agree

that invoices received by County more than 60 days following the date billing is due will not be paid by County. Services shall be provided in accordance with the description beginning on page 30 of Contractor's response to County's RFP 06-0008, dated March 10, 2006.

<b>Pricing for Intensive, Intermediate and Regular Tracks (For individuals who require supervision and treatment for (3) three months or longer.)</b>	
1-50 participants (per diem)	\$50.00 / per participant
51-100 participants (per diem)	\$40.00 / per participant
101-150 participants (per diem)	\$28.50 / per participant
151-200 participants (per diem)	\$24.00 / per participant
201-249 participants (per diem)	\$23.00 / per participant
250 participants or greater (per diem)	\$21.50 / per participant
<b>Pricing for Supervision with EM Track (For individuals who require tracking and/or Electronic Monitoring, i.e. HomeGuard or GPS without treatment.)</b>	
1-50 participants (per diem)	\$15.00 / per participant
51-100 participants (per diem)	\$14.00 / per participant
101-150 participants (per diem)	\$12.00 / per participant
151-200 participants (per diem)	\$10.00 / per participant
201-249 participants (per diem)	\$10.00 / per participant
250 participants or greater (per diem)	\$10.00 / per participant
<b>Pricing for Short Term Sanctions (For individuals who have violated conditions of the Court and require short term monitoring and supervision, i.e. drug, alcohol or failure to appear without treatment.)</b>	
1-50 participants (per diem)	\$17.00 / per participant
51-100 participants (per diem)	\$16.00 / per participant
101-150 participants (per diem)	\$14.00 / per participant
151-200 participants (per diem)	\$12.00 / per participant
201-249 participants (per diem)	\$12.00 / per participant
250 participants or greater (per diem)	\$12.00 / per participant

- a. *Aftercare.* Contractor provides aftercare free of charge for all participants who successfully complete the DRC program.
- b. *Average Daily Population.* The average daily population ("ADP") for the purposes of this agreement, is computed at the end of every calendar month as follows: The total number of client days during the month, divided by the number of days in the month. A "client day" is a 24 hour period following the admission of a single client. For billing purposes, any partial 24 hour period on the day of intake is not calculated

as a client day. (In other words, for billing purposes, the first day a client is physically present at the DRC program shall not be counted as a "client day," and the last day a client is enrolled in the DRC program shall be counted.)

- i. *Example 1:* If the ADP of clients enrolled in the Sedgwick County DRC during the month of June 2006 is 123, the total amount billed for the month of June will be calculated as follows:  $30 \text{ days} \times 123 \text{ clients} \times \$28.50 = \$105,165.00$
  - ii. *Example 2:* If the ADP of clients enrolled in the Sedgwick County DRC during the month of June 2006 is 151, the total amount billed for the month of June will be calculated as follows:  $30 \text{ days} \times 151 \text{ clients} \times \$24.00 = \$108,720.00$
- c. *Shared Fixed Cost Rebate.* Contractor shall provide the Shared Fixed Cost Rebate set-forth on page 80 of its response to County's RFP 06-0008, if the DRC facility is co-located within the same facility as the KDOC DRC. With regard to the rebate, the average daily client count enrolled in the Sedgwick County and KDOC DRC programs includes all clients in all tracks. So, for example, if there are 75 County clients in the Intensive, Intermediate, and Regular tracks, 50 County clients in the Supervision with EM track, 50 County clients in the Sanctions track, and 50 KS DOC clients (total client population 225):
- i. The price for the clients in the Intensive, Intermediate, and Regular tracks would be \$40.00 per client per day.
  - ii. The price for the clients in the Pretrial track would be \$14.00 per client per day.
  - iii. The price for the clients in the Sanctions track would be \$16.00 per client per day.
  - iv. The average daily client count would equal 225, so the County would receive a rebate of \$1.00 per client per day on all 175 County clients.
- d. The following clarifies the process for determining program admission (when billing begins) and program discharge (when billing ends):
- i. *Program Admission* - A client will be considered admitted into the program when a written referral is received from the Court/Court Representative by Contractor's staff and that referral is reviewed and accepted by Contractor's staff. Written notification will be sent to the Court within 3 days of the referral acknowledging the acceptance of that referral. Billing will start for the client on the day following intake. "Intake" is defined as the first day that the client is physically present at Contractor's facility for services.
  - ii. *Program Re-admission* - A client that is discharged and then re-admitted to the program will follow the same process as above.
  - iii. *Program Discharge* - A client will be considered discharged from the program on the date of one of the following events:
    - (1) *Successful:* The client successfully completes all of the requirements of the program per the Court order/referral. Contractor will send a status report to the Courts approximately two (2) weeks prior to every such anticipated discharge. Discharge for this reason will occur upon Contractor's receipt of written confirmation from the Courts.

- (2) *Completion:* The client's court ordered sentence terminates while the client is active in the program. Contractor will send a status report to Courts approximately two (2) weeks prior to every such anticipated discharge. Discharge for this reason will occur upon Contractor's receipt of written confirmation from the Courts.
- (3) *Court ordered Termination:* The Court orders the client discharged from the program. Discharge for this reason shall take place on the date such Court order is made. Contractor shall receive written confirmation of the Court order.
- (4) *Transfer External:* The client is deemed in need of higher levels of or different supervision and treatment/programming needs and is transferred to another community-based program. This will also apply if the client is hospitalized for a length of time greater than 5 days.
- (5) *Transfer Internal:* In the event that there are future Contractor programs that a client could potentially be referred to due to need. The client would be discharged from this program while simultaneously admitted to the other program.
- (6) *Unsuccessful:*
  - (a) The client is discharged by Contractor for any type of technical violation, which includes a violation of any aspect of the Court's order requiring a client to participate in the program or a violation of the Court-approved program plan, a copy of which is provided to the Court and the client. Any program violations will be reported and discussed with the Court prior to discharge.
  - (b) A client that fails to report to the Program for 5 consecutive days will be discharged at the end of the 5th day. Contractor's staff will make a reasonable effort to contact and re-engage the client during these 5 days and document such efforts. This may include, but is not limited to, one or more of the following: telephone calls to family, residence, and/or employer, home visits, site visit to employer, or similar efforts. The courts will receive written notification of client's failure to report each day, up to and including the 5th day resulting in discharge. A client that is taken into custody on an old case will also be discharged under this type as well.
- (7) *Death:* The client is deceased and Contractor is notified. Discharge for this reason will occur on the date Contractor's staff is able to verify that the client is deceased, not to exceed 5 consecutive days since the last day of direct service.

Discharge will take place at the end of business on the date indicated. Contractor will work out a process of communication with the Courts to satisfy the requirements hereunder. Contractor staff will maintain daily individual client sign-in logs to track attendance and participation in the program. These logs will be available for Court/Court Representative review. Billing will be submitted via Contractor's Case



Management Software (AccuTrax) detailing clients by name, case #, intake date, discharge date, billable days, daily rate and totals.

APPENDIX C

**Criminal History/Background Check Certification**

I, Michael Hankerd, the Corporate Controller (title) of BI Incorporated, hereby certify that all personnel assigned to work at the Sedgwick County Day Reporting Center during the pendency of this agreement will pass a criminal history background check with no convictions for any felony or any crime involving larceny or dishonesty/false statement, and an employment background check with no terminations for unethical conduct.

Michael E. Hankerd  
Name: Michael E. Hankerd  
Title: Corporate Controller


STATE OF COLORADO )  
COUNTY OF BOULDER ) ss:

SUBSCRIBED AND SWORN to before me this 30th day of May, 2006.

Diane Renee Young  
Notary Public

My Appointment Expires:  
2/3/2010

**APPENDIX D  
CORRECTIONS POLICY NO. 1.410**

 <b>SEDGWICK COUNTY DEPARTMENT OF CORRECTIONS POLICY &amp; PROCEDURES MANUAL</b>	<b>CHAPTER:</b> Fiscal Management	<b>POLICY NO:</b> 1.410
	<b>SUBJECT:</b> Contract Monitoring	<b>DATE:</b> 10/27/00 <b>PAGES:</b> 4
<b>PROGRAM:</b> ADULT FIELD SERVICES	<b>REF:</b> KDOC 1A-ADM-124	
Division Administrator Authorization		
<b>Revision Dates:</b> 11/02/01, 08/05/05		

**POLICY:**

Sedgwick County Department of Corrections shall monitor all contracts with providers of direct client services to ensure successful partnerships, accountability and effective delivery of service.

**DEFINITION:**

As used in this policy, the term *contract* refers to a written agreement between the department and a vendor providing specified services.

**APPLICATION:** All programs within the Sedgwick County Department of Corrections.

**PROCEDURE:**

**I. PHILOSOPHY**

- A. Contract monitoring shall be conducted to ensure accountability in service delivery.
- B. A successful partnership between the contract monitor and the service provider has a positive impact on the service delivery to citizens.
- C. The contract monitor shall strive to build a positive working relationship with the provider by maintaining appropriate communication, focusing on early identification and timely resolution of problems including early notification of potentially serious concerns or complaints.
- D. The terms of all contracts shall require service providers to designate a liaison to work with the contract monitor.

**II. FINANCIAL MONITORING**

- A. The department shall designate a staff member to be responsible for the general financial oversight of the contract.
- B. The designated staff member shall be responsible for:
  - 1. Receiving all required reports and invoices from the service provider, as outlined in the contract terms.
  - 2. Distributing the service reports to the designated monitor.

3. Reviewing financial reports for accuracy, understandability and compliance with contract terms.
4. Conferring with the department staff designated to monitor service delivery, as necessary to ensure appropriate payment for services.
5. Identifying and resolving any discrepancies with the service provider.
6. Reporting any significant discrepancies to the department director, or designee.
7. Forwarding the financial reports to the Sedgwick County Revenue Manager for processing and feedback.
8. Approval of payment for services.

### III. SERVICE MONITORING

- A. The department shall designate a staff member to act as monitor and to be responsible for the ongoing monitoring of service delivery and the terms of the contract.
- B. The monitor shall be responsible for conducting a minimum of three site visits during the first year and two site visits thereafter on all contracts of \$50,000 or more, to include:
  1. An initial site visit, which will occur only during the first contract year, unless deemed warranted by the department due to changes in services or personnel or when a visit would be beneficial. The initial visit will:
    - a. occur within the first 45 days of the contract;
    - b. set the foundation for future inspections;
    - c. confirm expectations of the contract and the content of the required monthly and/or quarterly reports;
    - d. give opportunity for the monitor and liaison to meet and confer.
  2. An unscheduled site visit, which may be announced to a provider to arrange a same day visit, which will:
    - a. occur after the initial visit, but during the first half of the contract year;
    - b. notify service delivery performance
    - c. provide technical guidance
  3. A scheduled site visit, which will:
    - a. occur after the unscheduled visit, and during the second half of the contract year;
    - b. confirm any corrective actions found necessary during the unscheduled visit;
- C. The monitor may conduct visits on contracts under \$50,000 on a random basis.
- D. The monitor will document all visits and provide the service providers with a copy of all findings. A copy of the findings from the scheduled site visit will be sent to the chairperson of the service provider's Board.

### IV. MONITORING OF OUTCOMES

- A. The monitor shall be responsible for:

1. Receiving any reports from the service provider, that may be required by contract or agreement.
2. Reviewing the reports for accuracy, understandability, and compliance with contract requirements.
3. Identifying and resolving any discrepancies with the service provider.
4. Forwarding the reports to the department director, or designee. The department director, or designee, shall be responsible for reviewing the outcomes and considering them prior to contract renewal.

#### V. CORRECTIVE ACTION

- A. The monitor will be responsible for giving written notice to the service provider of any deficiencies or areas of noncompliance with the contract terms. The notice will include, at a minimum:
  1. A clear description of the problem;
  2. A request for the service provider to submit a corrective action plan by a specified date;
  3. An offer to meet with the service provider to confer about the proposed corrective action plan.
- B. Upon receipt of the corrective action plan, the monitor shall review the proposed plan for understandability and compliance with contract terms.
- C. The provider and service monitor will work in coordination to ensure reported areas of non-compliance are corrected. If those attempts are unsuccessful, or if the problem is of such a nature to cause a safety risk to clients, the monitor will notify their immediate supervisor of the problem.
- D. The supervisor shall assess the problem and determine if the department director needs to be informed and involved.
- E. Penalties to the service provider for ongoing and/or serious deficiencies may include the withholding of payment and/or cancellation of the contract, as outlined in the contract terms.

#### VI. COMPLAINTS

- A. All verbal or written complaints regarding the service provider and received by Sedgwick County, whether received from clients or other citizens, shall be forwarded to the monitor.
- B. Upon receiving the complaint, the monitor shall make contact with the complainant to determine the nature of the problem, and if the complainant should be referred to the service provider for resolution.
- C. If the complainant has already sought resolution with the service provider, and/or the nature of the complaint merits department involvement, the monitor will begin an investigation within three working days and issue a report of findings to the contractor within five working days from when the investigation was begun.
- D. The monitor will inform the department director, or designee, of the investigation findings,

or of the need for further investigation.

- E. The department director or monitor, depending on the nature of the complaint, will respond in writing to all complaints. The service provider will also be given a copy of the response.

## VII. CONFIDENTIALITY

- A. Statements critical of agencies will be made by the monitor only as they are verifiable and constructive in purpose.
- B. Information contained in inspection reports will be disclosed by the monitor only to those with a professional need to know.
- C. The monitor shall be aware that all documentation of inspections and reports are public records and subject to disclosure under the Open Records Act.

## AMENDMENT TO SERVICES AGREEMENT

by and between:  
Sedgwick County, Kansas  
and  
BI Incorporated

THIS AMENDMENT is made and entered into this 14 day of December, 2006, by and between Sedgwick County, Kansas (hereinafter referred to as "County"), and BI Incorporated, a Colorado corporation that is registered to transact business in the State of Kansas (hereinafter referred to as "Contractor").

### WITNESSETH:

WHEREAS, on June 1, 2006, County entered into an agreement entitled "*Services Agreement*" (hereinafter referred to as the "Agreement") with Contractor, for Contractor to provide County with a Day Reporting Center (DRC) in Sedgwick County that would offer highly structured non-residential programs of intervention, supervision, and programming to clients in need of structure and case management services; and

WHEREAS, the parties now desire to amend the Agreement to specify per diem pricing for alcohol testing and monitoring.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto agree to amend the original Agreement as follows:

1. Section 9 ("Compensation") of Appendix B ("Statement of Work"), is hereby amended by the addition of the following:

"For individuals who are to be tested or monitored for the presence of alcohol in their system under the *BI Short Term Sanctions* monitoring program or the *Supervision with EM Track* monitoring program, the cost of the use of the BI Sobriotor® is \$3.00 per participant, per day."

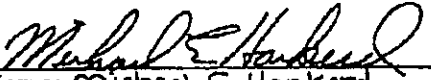
2. All terms, conditions, and provisions contained in the original Agreement and any subsequent amendments that are not amended herein shall remain in full force and effect as written therein.

3. The parties agree that this Amendment shall be effective as of the date first above written.

4. Each person executing this Amendment represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

Witness our signatures the day and year first above written.

BI INCORPORATED


  
Name: Michael E. Hankerd  
Title: Corporate Controller



SEDGWICK COUNTY, KANSAS

  
IRIS BAKER, Purchasing Director

ATTEST:  
  
DON BRACE, County Clerk

APPROVED AS TO FORM  
  
AARON T. BLASE 12/14/06  
Assistant County Counselor  
not for distribution



## **ADDENDUM TO SERVICES AGREEMENT**

**by and between:**

**SEDGWICK COUNTY, KANSAS**

**and**

**BI INCORPORATED**

**THIS ADDENDUM**, made and entered into this 19th day of December, 2007, by and between Sedgwick County, Kansas (hereinafter referred to as "County"), and BI Incorporated, a Colorado corporation that is registered to transact business in the State of Kansas (hereinafter referred to as "Contractor").

**WITNESSETH:**

**WHEREAS**, County and Contractor previously entered into an Agreement dated June 1, 2006, that provided for, inter alia, the monitoring of participants within a program administered by the Sedgwick County Department of Corrections; and

**WHEREAS**, County desires to expand the existing Agreement and select a qualified firm to provide electronic monitoring for juveniles reporting to the Sedgwick County Department of Corrections that will offer highly dependable electronic monitoring to ensure compliance with juvenile programs and court ordered requirements; and

**WHEREAS**, this Addendum is specifically authorized by Appendix A, General Contractual Provisions, Page A-3, Paragraph 11, entitled "Modifications" and Appendix B, Statement of Work, Page B-3, Paragraph 4(a)(ii)(4), entitled "Electronic Monitoring" as set forth in the Agreement between the parties dated June 1, 2006; and

**WHEREAS**, County desires to engage Contractor to perform said services; and

**WHEREAS**, County and Contractor desire to state the terms and conditions under which Contractor will provide said expanded services.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto agree as follows:

1. **Purpose.** Contractor will provide electronic monitoring services as detailed in Appendix E (Addendum, Compensation & Statement of Work), attached hereto and incorporated herein as a part of this Agreement (the "Services"), and as described in the following documents provided by Contractor that are incorporated herein by reference: Monitoring Service Rider for the Electronic Monitoring Program, Exhibit A to the Monitoring Service Rider, Exhibit B to the Monitoring Service Rider, Exhibit C to the Monitoring Service Rider, Addendum No. 1 Guardware on the Web Addendum to the Monitoring Service Rider, Exhibit A to the Guardware on the Web Addendum to the Monitoring Service Rider, Addendum No. 2 BI Cellular Addendum, ExacuTrack Service Rider, and Exhibit A to the ExacuTrack Service Rider. The parties agree that this Addendum shall be monitored by the Sedgwick County Department of Corrections (hereinafter referred to as "Corrections") as set forth in Corrections' Policy & Procedures Manual Policy No. 1.410, attached

as Appendix D to the June 1, 2006 Agreement. The County and Contractor agree that the existing Agreement dated June 1, 2006, and all Appendices thereto, shall remain in full force and effect. The parties acknowledge that Contractor will perform said Services as an independent contractor.

2. **Term.** The initial term of this Addendum shall be effective upon execution of the parties and shall coincide with, and be made a part of the same term as, the Agreement dated June 1, 2006. This Addendum may then be renewed at County's option for four (4) successive terms of one (1) year each on the same schedule as the June 1, 2006 Agreement.

3. **Compensation.** County agrees to pay and Contractor agrees to accept as compensation for the Services provided pursuant to this agreement the compensation amount set forth in Appendix E.

4. **Entire Agreement.** The Agreement dated June 1, 2006 and Appendices thereto, and this Addendum and the referenced attachments hereto, contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect.

5. **Authority.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.


Witness our signatures the day and year first above written.

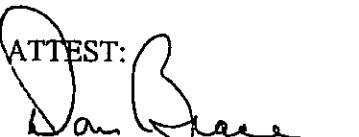
BI INCORPORATED

  
Name: **Michael E. Hankerd**  
Title: **Corporate Controller**




SEDGWICK COUNTY, KANSAS

  
IRIS BAKER, Purchasing Director

ATTEST:  
  
DON BRACE, County Clerk

APPROVED AS TO FORM

  
BILL H. RAYMOND  
Assistant County Counselor  
m:\shared\wpdat\purchas\

**APPENDIX E**  
**ADDENDUM COMPENSATION & STATEMENT OF WORK**

1. Contractor shall establish and add a system of radio frequency electronic bracelet devices and monitoring for determining a person's presence or absence at a specific location and intermittent reporting of persons placed into the designated Department of Corrections offender system(s).
2. Contractor shall provide an orientation and on-site training, monitoring services, notification(s), agency support, maintenance, equipment and monitoring systems as specifically set forth in the Monitoring Service Rider that is incorporated in this Addendum.
3. Contractor shall provide the following alerts/message descriptions to County: curfew alerts, tamper alerts, equipment statue alerts and communication messages, as specifically set forth in the Exhibit A to the Monitoring Service Rider that is incorporated in this Addendum.
4. Contractor shall provide notifications to County within the time specifications specifically set forth in Exhibit B to the Monitoring Service Rider that is incorporated in this Addendum.
5. **Compensation.** County agrees to pay and Contractor agrees to accept as compensation for the radio frequency electronic bracelet devices and monitoring provided pursuant to this Addendum the fees set forth below. These fees include all of Contractor's time, labor and equipment, travel, and all other expenses associated with the provision of Services, and shall be the sole compensation rendered to Contractor hereunder. Contractor agrees to invoice County on the same basis as the Agreement dated June 1, 2006. Services shall be provided in accordance with the description set forth in the incorporated documents referenced in the entirety of this Addendum.

<b>Pricing for Bracelets Devices and Monitoring</b>	
Radio Frequency Equipment Rental	\$1.66 / cost per day, per unit
Radio Frequency Full Service Monitoring	\$1.84 / cost per day, per unit
Radio Frequency Standard Automated Monitoring	\$1.03 / cost per day, per person
GPS ExacuTrack Passive	\$4.60 per day, per unit
GPS ExacuTrack AT On-Demand	\$7.25 per day, per unit
GPS ExacuTrack AT Active	\$ 8.40 per day, per unit

County shall additionally have the option to order additional services from Contractor, as County may determine is necessary, pursuant to the fee(s) schedule set forth in Exhibit C to the Monitoring Service Rider, Exhibit A to the Guardware on the Web Addendum to the Monitoring Service Rider, Addendum No. 2 BI Cellular Addendum, and Exhibit A to the ExacuTrack Service Rider, that are incorporated into this Addendum.

**EXACUTRACK™ SERVICE RIDER**  
between  
**Sedgwick County ("Agency") and BI Incorporated ("BI")**

---

This Rider outlines the responsibilities of each party relative to the operation of an Electronic Monitoring Program utilizing the Global Positioning System.

**1. DEFINITIONS**

- 1.1. "Client" means a person who is subject to Agency's electronic monitoring programs.
- 1.2. "Confidential Information" means any information which is marked, or should be reasonably understood to be, confidential, proprietary, or trade secrets of BI.
- 1.3. "Documentation" means the "BI ExacuTrack Officer's Reference Manual", which is incorporated herein by this reference and will be provided upon execution of this Rider.
- 1.4. "ETS" means ExacuTrack Tracking System. The ExacuTrack Tracking System consists of the passive monitoring of clients through use of ExacuTrack Equipment, licensed software and the GPS system.
- 1.5. "ExacuTrack Equipment" or "Unit" means (a) a transmitter (a "tag"), (b) a Tracking Unit, and (c) the base station.
- 1.6. "ExacuTrack™" or "ExacuTrack™ System" means the ExacuTrack Equipment, licensed software, Documentation and Service.
- 1.7. "GPS" means global positioning system.
- 1.8. "Service" means the services described in Section 2.
- 1.9. "System" means BI's ExacuTrack central monitoring computer system that is located and maintained at BI's offices.
- 1.10. "Use" means utilization of the Service via computer for the purpose of accessing the System.

**2. BI's SERVICES**

2.1. **ExacuTrack System.** BI shall provide Agency access to and use of BI's ExacuTrack System. BI's ExacuTrack System utilizes an interactive computer system enabling Clients to be passively monitored using the ETS in accordance with the Documentation.

2.2. **Training.** BI will provide an initial training session at no cost to the Agency regarding the operation and use of the ExacuTrack System. This training is a requirement before commencement of services under this Rider. No login ID will be activated until and unless the assigned user has successfully completed training certified by BI. Additional training will be available in accordance with Exhibit A.

2.3. **Agency Support.** BI will endeavor to provide Agency with answers to specific Agency support requests as related to the ExacuTrack System. BI will supply Agency with an address for e-mail and a 1-800 toll free number for questions and or feedback.

### 3. EQUIPMENT

**3.1. Supplied by BI.** In the event Agency utilizes BI supplied Units, then, subject to availability of the Units, BI shall supply a sufficient quantity of Units to meet Agency's need subject to notice five (5) business days prior to shipment. Agency agrees that it shall assist BI in forecasting its Unit needs. All Units supplied by BI shall be subject to all charges set forth in Section 5 herein, as applicable. Agencies utilizing BI supplied Units shall be entitled to receive, at no additional charge, a reasonable quantity of supplies (batteries, latches, and straps) and a reasonable quantity of installation kits to maintain Agency's active monitoring program. In the event any item of ExacuTrack Equipment is damaged to a material extent by any occurrence whatsoever, Agency shall promptly notify BI and shall at its cost and expense repair such ExacuTrack Equipment to its original condition. In the event any item of ExacuTrack Equipment shall be lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit or unavailable for use, for any reason whatsoever (any such occurrence being referred to as an "Event of Loss"), Agency shall promptly notify BI and shall at its cost and expense replace such ExacuTrack Equipment. Upon providing written notice at least two (2) business days prior, BI shall have the right to enter on the premises where the Equipment may be located during normal business hours for the purpose of inspecting it, observing its use, or conducting an inventory.

**3.2. Supplied by Agency.** Agency may, subject to prior approval by BI, supply its own Units or equipment to be utilized hereunder. Any such Unit or item of equipment must be compatible with BI's host computer monitoring system. Units and/or equipment supplied by Agency will not be subject to the rental charges set forth in Section 5.1 and/or 5.2 herein. All other charges as set forth in Section 5 are considered applicable and are payable by Agency in accordance with the terms and conditions set forth in Section 5. In no event is Agency entitled to Unit supplies (batteries, latches, and straps) or maintenance hereunder if it is supplying Units.

**3.3. Freight.** Unless otherwise set forth on Exhibit A, any shipment made by one party to the other hereunder shall be made F.O.B. Destination.

### 4. AGENCY'S OBLIGATIONS

Agency agrees:

- 4.1. to retain complete authority and responsibility for Client selection, enrollment and management;
- 4.2. to use ExacuTrack in accordance with the terms of this Rider, including specifically the Documentation;
- 4.3. to perform or oversee orientation and installation of ExacuTrack Equipment in compliance with BI policy. BI policy establishes a specifically correct method of ExacuTrack Equipment installation. Orientation, in accordance with BI policy, establishes ExacuTrack Equipment use guidelines;
- 4.4. to be responsible for all liaison work with the involved courts;
- 4.5. to be responsible for all follow up calls to the Clients;
- 4.6. to use a computer with Internet Explorer 5.5 or higher to access and utilize the ExacuTrack System;
- 4.7. to verify the accuracy of its profile and notification defaults prior to enrolling any Clients;
- 4.8. to be responsible for monitoring Clients, including, but not limited to, managing alerts and reports, in accordance with the Documentation;
- 4.9. to establish policies and procedures for response to alert notifications and to respond accordingly;
- 4.10. to be responsible for the proper use, management and supervision of ExacuTrack Equipment;

- 4.11 to refrain from sharing login ID's
- 4.12 to perform the functions of data entry and data storage for all Clients properly enrolled per the Documentation. The data entry function consists of the input of all required demographic, curfew, and system configuration information on each case into the System.

## 5. COST OF SERVICES.

5.1. **ExacuTrack Charges.** For each Unit provided to Agency by BI, Agency shall pay to BI an amount for each day in any given month that such Unit is in Agency's possession (the "ExacuTrack Charge"). The ExacuTrack Charge is as set forth on Exhibit A which is attached hereto and incorporated herein.

5.2. **Net 30.** BI will invoice Agency on a monthly basis for all charges incurred during the month. Payment shall be made by Agency to BI within thirty (30) days of receipt of BI's invoice. Interest on any amount which is past due shall accrue at the rate of 1-1/2% per month, or if such rate exceeds the maximum rate allowed by law, then at such maximum rate, and shall be payable on demand.

5.3. **Taxes.** In the event any item hereunder is found to be subject to taxation in any form, except taxes based upon net income, Agency will pay as the same respectively come due, all taxes and governmental charges of any kind whatsoever together with any interest or penalties that may at any time be lawfully assessed or levied against or with respect to such item of equipment or services. In the event Agency is tax exempt, Agency agrees to supply BI with a tax exemption certificate.

## 7. LIMITATION OF LIABILITY

Agency will be responsible for the proper use, management and supervision of the ExacuTrack Equipment. Agency agrees that BI will not be liable for any damages caused by Agency's failure to fulfill these responsibilities.

### 7.1. **Disclaimer of Warranty.**

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, BI EXCLUDES THE WARRANTIES OF MERCHANTABILITY AND FITNESS OF THE SERVICE OR EQUIPMENT FOR A PARTICULAR PURPOSE. BI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICE OR EQUIPMENT IS IMPERVIOUS TO TAMPERING. BI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICE OR EQUIPMENT IS COMPLETE, ACCURATE, RELIABLE, ERROR FREE OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS, THAT THE PRODUCTS AND SERVICES WILL BE CONTINUOUSLY AVAILABLE, OR THAT DATA ENTERED ARE SECURE FROM UNAUTHORIZED ACCESS. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED.

### 7.2. **Damages.**

IN NO EVENT WILL BI BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF BI HAS KNOWLEDGE OF THE POSSIBILITY OF THE POTENTIAL LOSS OR DAMAGE, IN CONNECTION WITH OR ARISING OUT OF THE PROVIDING, PERFORMANCE, OR USE OF THE SERVICE OR EQUIPMENT PROVIDED UNDER THIS RIDER.

**7.3. Acts.**

IN NO EVENT DOES BI ASSUME ANY RESPONSIBILITY OR LIABILITY FOR ACTS THAT MAY BE COMMITTED BY PERSONS AND/OR CLIENTS THAT ARE SUBJECT TO AGENCY'S ELECTRONIC MONITORING PROGRAM.

**8. INDEMNIFICATION COVENANTS**

**8.1. General.**

BI will indemnify Agency from and against all liability resulting from the negligence or willful misconduct of BI, its employees and agents in the providing of the services set forth herein. Agency will indemnify BI from and against all liability resulting from the negligence or willful misconduct of Agency, its employees and agents in the operation and use of the services as set forth herein.

**8.2. Acts.**

Because BI does not approve those persons and/or Clients subject to Agency's electronic monitoring program, Agency agrees to indemnify BI from and against all liability resulting from the acts committed by those persons subject to its electronic monitoring program.

**8.3. Liability.**

As used herein in this Section 8, the term "liability" includes but is not limited to legal fees and expenses, penalties and interest.

**8.4. Survival.**

This indemnification provision shall remain in effect even if Agency has made full payment under this Rider or this Rider is terminated.

**9. OWNERSHIP--CONFIDENTIALITY/NONDISCLOSURE OBLIGATIONS.**

9.1 BI shall retain all ownership interests in all parts of the ExacuTrack System. All rights owned by BI that are not granted by this Rider, including the right to derivative works, are reserved to BI. The Licensed Software, Documentation, and any and all copies thereof, whether in whole or in part, whether made by BI or anyone else, and all rights, powers and privileges which arise out of this Rider are, and shall remain at all times, the sole and exclusive property of BI. Nothing contained in this Rider shall be deemed to convey to Agency any title or ownership interest in the Licensed Software, Documentation and rights, powers and privileges that arise out of this Rider. Agency shall not directly or indirectly dispute or contest the validity of BI's rights to the Licensed Software.

9.2. Agency further understands, acknowledges, and agrees that certain aspects of the Licensed Software are BI's trade secrets. These include, but are not limited to, the following: system design, modular program structure, system logic flow, file content, video and report format, coding techniques and routines, file handling, video screen and data entry handling, and report and/or form generation. Agency agrees to hold in confidence and not disclose to any party, other than authorized employees, the Licensed Software, Documentation or any trade secrets of BI.

9.3. BI will issue Agency a login ID and a password for use in accessing the System and the specific Client information for that Agency. The confidentiality of the ExacuTrack System and Client information is dependent upon Agency's careful



control of the login ID and password. Agency agrees to maintain its password as private and confidential information and to take all reasonable measures to maintain the careful control and security of the login ID and password and the Licensed Software, and shall not allow parties, except authorized employees or contractors of the Agency, access to the Licensed Software or any of its component parts. In this regard, Agency agrees that each employee or contractor, to be authorized to work with or to have access in any way to the Licensed Software, Documentation, or trade secrets hereunder, shall agree to be bound by the confidentiality, nondisclosure, use, and copying restrictions of this Rider. Agency agrees to notify BI immediately of the existence of any circumstances surrounding any unauthorized knowledge, possession, or use of the login ID and password, Licensed Software or any part thereof by any person or entity. BI is not responsible for breaches in security resulting from third party access to Agency's password.

- 9.4. Agency shall not itself and also shall not knowingly permit any of its employees, subcontractors, or sublicensees to alter, maintain, enhance, or otherwise modify any part of the ExacuTrack System, other than strictly to input, access and update information relating to Clients, as permitted by this Rider. Agency shall not reverse engineer, reverse compile, reverse assemble or do any other operation or analysis with the Service or the System or associated software, hardware, and technology that would reveal any of BI's confidential information, trade secrets, or technology.
- 9.5. Agency agrees not to make any attempt to gain any unauthorized access to any other Agency's or user's account or to the systems, networks or databases of System other than Agency's specific Client information as specifically permitted herein. Violations of the System security system are prohibited and could result in criminal and civil liability.
- 9.6. Agency shall not, and shall take all reasonable actions to cause its employees, agents and subcontractors, if any, not to, during the term of this Rider or at any time thereafter, divulge, communicate or utilize, other than in the performance of Agency's obligations under this Rider, any Confidential Information which Agency's or such person has acquired or may acquire, whether technical or non-technical, relating to the business and affairs of BI, including without limitation the ExacuTrack System and related documentation.

#### **10. FORCE MAJEURE.**

BI shall not be liable for any delay in the performance or nonperformance which is due to causes beyond BI's control, including, but not limited to, war, fire, floods, sabotage, civil unrest, strikes, embargoes or delays, acts of God, acts of third parties, acts of governmental authority or any agent or commission thereof, accident, breakdown of equipment, failure of third-party telecommunications services (both wireless and wire systems), differences with employees or similar or dissimilar causes beyond BI's reasonable control.

**EXHIBIT A**  
**to the**  
**EXACUTRACK™ SERVICE RIDER**

Pursuant to Section 5 of the ExacuTrack Service Rider referenced above, the cost to Agency for the services rendered by BI is as follows:

**EXACUTRACK SERVICE CHARGE:**

**EXACUTRACK AT CHARGE:**

ExacuTrack AT Tracker & Transmitter Charge:	\$4.79 per day per Unit provided from BI inventory.
ExacuTrack AT Base Station Charge:	No Charge.
ExacuTrack AT Service Charge:	\$3.61 per day per Unit provided from BI inventory.
ExacuTrack AT Charge:	\$8.40 (Total of the ExacuTrack AT component charges and the ExacuTrack AT Service Charge.)

**EXACUTRACK ON DEMAND CHARGE:**

ExacuTrack On Demand Tracker & Transmitter Charge:	\$3.64 per day per Unit provided from BI inventory.
ExacuTrack AT Base Station Charge:	No Charge.
ExacuTrack AT Service Charge:	\$3.61 per day per Unit provided from BI inventory.
ExacuTrack AT Charge:	\$7.25 (Total of the ExacuTrack On Demand AT component charges and the ExacuTrack AT Service Charge.)

**EXACUTRACK PASSIVE CHARGE:**

ExacuTrack Tracker & Transmitter Charge:	\$2.74 per day per Unit provided from BI inventory.
ExacuTrack Base Station Charge:	No Charge.
ExacuTrack Service Charge:	\$1.86 per day per Unit provided from BI inventory.
ExacuTrack Charge:	\$4.60 (Total of the ExacuTrack Unit Charge and the ExacuTrack Service Charge.)

**ADDITIONAL SERVICES:**

**Freight:** BI will pay for the cost of shipping Units and other Equipment to and from Agency.

**20% No-charge ExacuTrack AT Spares:** Each month hereunder, Agency is entitled to keep a quantity of ExacuTrack AT Tracker units equal to 20% of that month's corresponding average number of actively used ExacuTrack AT Tracker units per day, in its possession at no charge (i.e.; these units are not subject to the daily rental rate while not in use). The charge for any inactive Units in excess of the 20% No-charge Spare allowance Agency will incur a \$4.79 charge per day/per unit. Following execution of this Rider, Agency will be granted a sixty (60) day ramp-up period before billing of spares will commence.

**20% No-charge ExacuTrack Spares:** Each month hereunder, Agency is entitled to keep a quantity of ExacuTrack Tracker units equal to 20% of that month's corresponding average number of actively used ExacuTrack Tracker units per day, in its possession at no charge (i.e.; these units are not subject to the daily rental rate while not in use). The charge for any inactive Units in excess of the 20% No-charge Spare allowance Agency will incur a \$2.74 charge per day/per unit. Following execution of this Rider, Agency will be granted a sixty (60) day ramp-up period before billing of spares will commence.

**ExacuTrack AT Loss or Damage:** Agency is not entitled to a loss or damage allowance. Agency will be responsible for all costs related to lost, stolen or damaged Exacutrack AT Equipment. Replacement costs for Exacutrack AT units are the following: Exacutrack AT Base Station \$1,320.00 each; Exacutrack AT Transmitter \$575.00 each; and Exacutrack Active Tracking Unit \$1,095.00 each.

**ExacuTrack Loss or Damage:** Agency is not entitled to a loss or damage allowance. Agency will be responsible for all costs related to lost, stolen or damaged Exacutrack Equipment. Replacement costs for Exacutrack units are the following: Exacutrack Base Station \$1,320.00 each; Exacutrack Transmitter \$575.00 each; and Exacutrack Tracking Unit \$1,095.00 each.

**Additional remote training:** From 8:00 a.m. to 5:00 p.m. Mountain Standard Time, \$200 per hour. Minimum charge of one (1) hour; thereafter billed in fifteen minute increments.

**Additional on-site training:** \$1000 per day, 2 day minimum, plus actual out of pocket expenses for on-site training including one BI staff person's travel, room, board, and miscellaneous expenses.

**MONITORING SERVICE RIDER**  
**between**  
**SEDGWICK COUNTY ("AGENCY") AND BI INCORPORATED ("BI")**

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This Rider outlines the responsibilities of each party relative to the operation of an Electronic Monitoring Program.

**1. DEFINITIONS**

- 1.1. **Client:** A person sentenced and subject to Agency's electronic home detention monitoring program.
- 1.2. **Equipment:** BI manufactured products including, but not limited to, Field Monitoring Devices, Transmitters, Drive-BI Monitors, Alcohol Monitoring Devices, as well as third party products provided by BI.
- 1.3. **Unit:** BI manufactured Field Monitoring Device ("FMD") together with a BI radio frequency transmitter ("Transmitter").
- 1.4. **Supplies:** Straps, latches, and batteries for the BI Transmitter.
- 1.5. **Alert Condition:** An occurrence requiring BI to provide information to Agency, as further set forth in the attached Exhibit A.
- 1.6. **Authorized Personnel:** Those persons selected by Agency who are authorized to enroll Clients and select or adjust notification options.
- 1.7. **Notification Options:** Predefined parameters selected by Agency which instruct BI on how to respond to and notify Agency of an Alert Condition.

**2. SERVICES AND RESPONSIBILITIES OF BI**

**2.1. Training**

BI will supply initial on-site training for Agency staff at no charge prior to the commencement of the monitoring program. The training shall be divided into classroom-type and practical hands-on instruction. Agency may choose to expand this training into additional and/or periodic training. Actual out of pocket expenses for all additional and/or periodic training, including one BI staff person's travel, room, board, and miscellaneous expenses will be borne by Agency.

**2.2. Monitoring Services**

BI will provide the following monitoring services to Agency for Agency's operation of an electronic home detention monitoring program. The monitoring services provided hereunder are specifically designed to determine by electronic means the presence of a person at a specified location (typically that person's place of residence).

2.2.1. Unless otherwise specified in the GuardWare® Addendum No.1 attached herein, BI will perform the functions of data entry and data storage for all properly enrolled Clients. The data entry function consists of the input of all required demographic, curfew, and system configuration information on each case into the central host computer system.

2.2.2. BI will provide notification of Alert Conditions to authorized and identified Agency staff. Alert notification will be in accordance with Section 2.2.5 herein or as agreed upon in writing by Agency and BI.

2.2.3. Alert Condition and Equipment status information for each Client will be documented and maintained by BI. Upon a Client's completion of the monitoring term, BI will archive a termination record of all monitoring data compiled during the monitoring term. This record will be maintained by BI for a period of no less than five (5) years from the date of each Client's termination.

2.2.4. BI will assume the financial responsibility of all long distance telephone charges associated with Unit and central host computer communications.

**2.2.5. Notification Options - Automated Alphanumeric Paging Notifications**

BI's Notification procedures are set forth below. Prior to the commencement of the services provided hereunder. Clients will be assigned the selected Agency Level Notification Option described herein. Agency is required to access BI's GuardCenter GuardWare® Computer System as stated in the attached Addendum No. 1 to this Rider. BI's GuardWare® system is defined as secured Internet access to a private area network protected by Citrix.

2.2.5.1 Agency will receive three (3) pages per occurrence of the Alert Condition, twenty-four (24) hour, seven (7) days per week, including holidays. Agency shall have the option of receiving two paging from two different paging numbers (persons), which shall be received at the same time for additional three (.03) cents per page per day to the Agency. Confirmation by the officers is not required; BI will receive confirmation for receipt of page from the paging company as described in section 2.2.5.3. All other messages will be reported to Agency the next day via facsimile transmission of the daily summary report.

2.2.5.2 Agency will have the option to receive their standard daily summaries via email; this email has a PDF or a text attachment in their inbox. Agency will receive the email approximately the same time each day (before 7:00 a.m. MST). Or, the option of automatically receiving these emailed reports by viewing or printing the reports via GuardWare® (see the attached GuardWare® Addendum No. 1). Agency has the option to customize their notification procedures. All other messages will be reported to Agency the next day via facsimile transmission of the daily summary report.

2.2.5.3 All tampers and missed call messages will be reported to Agency staff within thirty (30) minutes of the monitoring center's receipt of those messages or as soon as possible thereafter through a alphanumeric paging system on all tamper alerts, as well as manual restarts, location verification complete and transmitter closed straps. BI will manually contact Agency staff when a page fails in the paging queue (the page doesn't go through, or outlasts the automatic pairing time parameters for specified events as defined herein); and BI will contact the Agency when multiple events occur at the same time. Example; a client's telephone is disconnected and the service is subsequently restored. The stored activity during the disconnection transfer will data to GuardWare® all at once, warranting a single follow up contact from the GuardCenter to the Agency. All other messages will be reported to Agency the next day via facsimile transmission of the daily summary report.

2.2.5.4 Deviations from the Notification Option described herein may be made by the submittal of an Amendment signed by both parties Authorized Personnel. Agreed upon deviations may subject the Agency to an increase in the Monitoring Service Charge.

**2.3. Agency Support**

BI will make reasonable efforts to provide Agency with answers to specific Agency support requests as related to the Equipment, monitoring services, and overall operation of the program.

#### **2.4. Maintenance**

BI shall maintain the Equipment at its expense. Maintenance will be performed at BI's facility. Notwithstanding such obligation, unless otherwise specified in Exhibit C, Agency shall be responsible for lost or missing Equipment and/or the cost of required repairs necessitated by (i) Agency's negligence or (ii) the damage or destruction of the Equipment by parties other than BI.

### **3. EQUIPMENT**

#### **3.1 Supplied by BI**

In the event Agency utilizes BI supplied Units and other Equipment, then BI shall supply a sufficient quantity of Units to meet Agency's need subject to forty-eight (48) hour notice prior to shipment. Agency agrees that it shall assist BI in forecasting its Unit needs. All Units or other Equipment supplied by BI shall be subject to all charges set forth in Section 6 herein, as applicable.

Agencies utilizing BI supplied Equipment shall be entitled to receive, at no additional charge, a reasonable quantity of Supplies and a reasonable quantity of installation kits (Unit activator, lead cutter, allen driver) to maintain Agency's active monitoring program.

Inspection of Equipment - Upon providing written notice at least two (2) business days prior, BI shall have the right to enter on the premises where the Equipment may be located during normal business hours for the purpose of inspecting it, observing its use, or conducting an inventory.

#### **3.2 Supplied by Agency**

Agency may, subject to prior approval by BI, supply its own Units or equipment to be utilized hereunder. Any such Unit or item of equipment must be compatible with BI's host computer monitoring system. Units and/or equipment supplied by Agency will not be subject to the rental charges set forth in Section 6.1 and/or 6.2 herein. All other charges as set forth in Section 6 are considered applicable and are payable by Agency in accordance with the terms and conditions set forth in Section 6. In no event is Agency entitled to Unit supplies (batteries, latches, and straps) if it is supplying Units and/or Equipment hereunder.

#### **3.3. Freight**

Unless otherwise set forth on Exhibit C, any shipment made by one party to the other hereunder shall be made F.O.B. Destination.

### **4. MONITORING SYSTEM**

#### **4.1. Description**

The monitoring system utilized hereunder is an active monitoring system consisting of a Transmitter, an FMD, and BI's central host computer system. Units are issued to the Clients by the Agency. The central host computer system is located in BI's offices. The Units communicate with the host computer system through the Client's standard telephone service.

#### **4.2. System Maintenance**

Agency acknowledges that BI must perform periodic maintenance on the host computer system. During the performance of this maintenance, the system may be required to be temporarily 'off-line'. Agency will be notified in advance of any such situation.

### **5. AGENCY'S OBLIGATIONS**

Agency agrees as follows:

- 5.1. to retain complete authority for Client selection and management;
- 5.2. to be responsible for all liaison work with the involved courts and/or agencies;
- 5.3. to provide BI with an Agency Level Notification Form;
- 5.4. to identify Authorized Personnel;

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5.5. to provide to BI required Client case and curfew information via the Client Enrollment Form and/or Client Change Form;

5.6. to identify and make available Agency staff and/or equipment (fax, pager) for the purpose of notification by BI to Agency of alerts and Equipment status problems;

5.7. to perform or oversee orientation and installation of Equipment in compliance with BI policy. BI policy establishes a specifically correct method of Equipment installation. Orientation, in accordance with BI policy, establishes Equipment use guidelines. In the event that BI assumes liability for lost, stolen, or damaged Units, Agency will ensure that Equipment responsibility forms are signed by the Clients;

5.8. to establish an Alert Condition response policy and to respond to Alert Condition notifications in accordance with that policy.

## **6. COST OF SERVICES**

### **6.1. Unit Rental Charge**

For every Unit provided to Agency by BI, Agency shall pay to BI rent for each day in any given month that a Unit is in Agency's possession (the "Unit Rental Charge"). The Unit Rental Charge is as set forth on Exhibit C which is attached hereto and incorporated herein.

### **6.2. Additional Rental Charge**

For any additional items of Equipment provided by BI, Agency shall pay to BI monthly rent for that item of Equipment in Agency's possession (the "Additional Rental Charge"). The Additional Rental Charge is as set forth on Exhibit C which is attached hereto and incorporated herein.

### **6.3. Monitoring Service Charge**

For the purposes of this Rider, an Active Unit is defined as a Unit which is assigned to a Client and is being monitored by BI (an "Active Unit"). An Active Unit Day is defined as any day, or any portion thereof, in which there is an Active Unit (an "Active Unit Day"). Every Active Unit is subject to a daily charge, the "Monitoring Service Charge", as set forth in Exhibit C hereto. For every Active Day, Agency shall pay to BI an amount based upon the Monitoring Service Charge.

### **6.4. Net 30**

BI will invoice Agency on a monthly basis for all charges incurred during the month. Payment shall be made by Agency to BI within thirty (30) days of receipt of BI's invoice. Interest on any amount which is past due shall accrue at the rate of 1-1/2% per month, or if such rate exceeds the maximum rate allowed by law, then at such maximum rate, and shall be payable on demand.

### **6.5. Taxes**

In the event any item hereunder is found to be subject to taxation in any form, except taxes based upon net income, Agency will pay as the same respectively come due, all taxes and governmental charges of any kind whatsoever together with any interest or penalties that may at any time be lawfully assessed or levied against or with respect to such item of equipment or services. In the event Agency is tax exempt, Agency agrees to supply BI with a tax exemption certificate.

## **7. LIMITATION OF LIABILITY**

Agency will be responsible for the proper use, management and supervision of the Equipment. Agency agrees that BI will not be liable for any damages caused by Agency's failure to fulfill these responsibilities.

### **8.1. Disclaimer of Warranty**

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, BI EXCLUDES THE WARRANTIES OF MERCHANTABILITY AND FITNESS OF THE SERVICE OR EQUIPMENT FOR A PARTICULAR PURPOSE. BI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICE OR EQUIPMENT IS IMPERVIOUS TO TAMPERING. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED.

## **8.2. Damages**

IN NO EVENT WILL BI BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF BI HAS KNOWLEDGE OF THE POSSIBILITY OF THE POTENTIAL LOSS OR DAMAGE, IN CONNECTION WITH OR ARISING OUT OF THE PROVIDING, PERFORMANCE, OR USE OF THE SERVICE OR EQUIPMENT PROVIDED UNDER THIS RIDER.

## **8.3. Acts**

IN NO EVENT DOES BI ASSUME ANY RESPONSIBILITY OR LIABILITY FOR ACTS THAT MAY BE COMMITTED BY PERSONS AND/OR CLIENTS THAT ARE SUBJECT TO AGENCY'S ELECTRONIC MONITORING PROGRAM.

## **9. INDEMNIFICATION COVENANTS**

### **9.1. General**

BI will indemnify Agency from and against all liability resulting from the negligence or willful misconduct of BI, its employees and agents in the providing of the services set forth herein. Agency will indemnify BI from and against all liability resulting from the negligence or willful misconduct of Agency, its employees and agents in the operation and use of the services as set forth herein.

### **9.2. Acts**

Because BI does not approve those persons and/or Clients subject to Agency's electronic monitoring program, Agency agrees to indemnify BI from and against all liability resulting from the acts committed by those persons subject to its electronic monitoring program.

9.3. The term "liability" includes but is not limited to legal fees and expenses, penalties and interest.

9.4. This indemnification provision shall remain in effect even if:

9.4.1. Agency has made full payment under this Rider; or

9.4.2. This Rider is terminated.

## **10. FORCE MAJEURE**

BI shall not be liable for any delay in performance or any nonperformance which is due to causes beyond BI's control, including, but not limited to, war, fire, floods, sabotage, civil unrest, strikes, embargoes or delays, acts of God, acts of third parties, acts of governmental authority or any agent or commission thereof, accident, breakdown of equipment, telecommunications services – both wireless and "land-line" systems, differences with employees or similar or dissimilar causes beyond BI's reasonable control.



EXHIBIT A  
to the  
MONITORING SERVICE RIDER

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**ALERT/MESSAGE DESCRIPTIONS**

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**CURFEW ALERTS**

**Did Not Return:** The Client did not return after the scheduled period started. This message is sent if the Transmitter In Range message is not received within fifteen minutes after the Client is scheduled to be in the residence.

**Did Not Leave:** The Client did not leave the range of the FMD during a scheduled leave period. This message is only sent if the Transmitter Out of Range is not received within fifteen minutes of the leave time. This message is only sent if a *must leave* schedule is in place.

**Transmitter In Range:** Occurs when the FMD receives a message from a matching transmitter when the Client comes into range of the FMD.

**Transmitter Out of Range:** Occurs when the FMD has not received a signal from the transmitter for six minutes.

**TAMPER ALERTS**

**Transmitter Open Strap:** The Client has removed or attempted to remove the transmitter, or the transmitter was disassembled to replace the battery. If the Client tampered with the transmitter in range of the FMD, the tamper message will be called in immediately. If the transmitter is being operated in manual reset mode, and is tampered out of range of the FMD, the actual time of tamper is recorded and sent immediately when the Client comes in range. If the transmitter is being operated in manual reset mode, an officer must use the Bi Activator to reset the transmitter.

**Transmitter Close Strap:** The transmitter is restored from its previous tamper status. If the transmitter is being operated in automatic mode and automatically resets while out of range of the FMD, the time of restoration will be recorded and sent immediately upon coming in range. Note: The transmitter must be properly affixed to the Client in order to receive this message. It is recommended that a physical inspection of the transmitter is conducted after receipt of this message.

**Tamper Unit Case:** The FMD case has been opened or the internal circuitry of the FMD has been disrupted.

**Restore Unit Case:** The FMD's previous tamper status has been restored.

**EQUIPMENT STATUS ALERTS**

**Missed Call Late:** The callback from the FMD has not been received within 45 minutes of the scheduled callback time.

**Power Fail AC:** Power to the FMD was interrupted. This message is sent eight seconds after the AC power is interrupted either by a power outage or by the power adapter being unplugged. When the power is interrupted, the FMD immediately switches to battery backup. The host computer then waits fifteen minutes to see if a restore message is called in from the FMD. If a restore message is not received within fifteen minutes, then the *Power Fail* message is sent and an alert is generated.

**Power Restore AC:** The power to the FMD has been restored.

Continuation of EXHIBIT A  
**ALERT/MESSAGE CONDITIONS**

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**Power Fail Telephone:** The FMD detected that the telephone line plugged into the FMD has been disconnected for more than thirty seconds. This message could also be the result of insufficient voltage.

**Power Restore Telephone:** The telephone line to the FMD has been restored.

**Unit Battery Low:** The internal FMD battery has approximately ten minutes of reserve power remaining. If this message is unable to be sent, the unit shuts down in ten minutes and all messages held in memory are lost.

**Manual Restart:** Indicates that the power switch has been keyed on. This message also is sent upon power restoration after complete depletion of the FMD's back up battery.

**Transmitter Not Found:** The FMD has not received a signal from the transmitter within six minutes following the installation.

**Transmitter Mode Automatic:** The transmitter tamper reset mode is set for automatic. If the transmitter is restored following a tamper, the transmitter will automatically reset seventeen minutes after proper installation.

**Transmitter Mode Manual:** The transmitter tamper reset mode is set for manual. In the manual mode, a tampered transmitter can only be reset by the BI Activator.

**Transmitter Error Battery Low:** The transmitter batter is low and must be replaced within five days.

**Transmitter Restore Battery:** The transmitter battery is now installed. This message is received when the FMD is first installed in the Client's residence (if the battery is transmitting).

**Location Verify Expire:** The host computer was unsuccessful in its attempt to call the FMD for a location verification.

**Location Verify No Data:** The host computer is unable to complete a location verification because the Client's residence telephone number was not entered into the database.

**Log Overflow Fault:** The FMD holds up to 64 messages in memory. The Log Overflow Fault message indicates that the memory is full and is stored in the event that a long duration problem has occurred such as a telephone line disconnection. Once the Log Overflow Fault message (64th messages) is recorded, all messages received thereafter are saved in order of priority. Example: Transmitter Open Strap.

**COMMUNICATION MESSAGES**

**Carrier Not Detected:** The FMD did not receive a carrier tone from the host computer's modem and the messages were not transmitted.

**Host No Answer:** The FMD attempted to call the host computer, but received no answer.

**Line Tied Up Level 1:** The FMD attempted to call the host computer, but the line was in use. This message is recorded on the first series of attempts to call the host computer once connection has been made.

**Line Tied Up Level 2:** Same as Line Tied Up Level 1 except this message is recorded on the second series of attempts to call the host computer once connection has been made.

**Line Tied Up Level 3:** Same as Line Tied Up Level 1 except this message is recorded on the third series of attempts to call the host computer once connection has been made.

**Link Lost Error:** The FMD's communication with the host computer was interrupted and the information did not transfer. This messaged is usually caused by interference on the telephone line.

**No Ring Detected:** The FMD attempts to call the host, but does not detect a carrier tone.

EXHIBIT B  
to the  
MONITORING SERVICE RIDER

**BI GuardCenter Agency Notification Form**

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REVISED/EFFECTIVE	AGENCY CONTACT/TITLE	AGENCY #

ADDRESS	PHONE NUMBERS
	Office: Fax:

*This form shall constitute written notification of Agency's selected Default Agency Unit Setup and Notification Parameters as follows:*

<b>FIELD MONITORING DEVICE (FMD) SET-UP DATA</b>
--

Time Zone: CST                      Range: HIGH                      Audible Alarm: DISABLE  
Daylight Saving Observed: YES    Range Light: DISABLE

<b>FIELD MONITORING DEVICE (FMD) ALERT NOTIFICATION</b>
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Specified curfew alerts at or exceeding 30 minutes shall be reported to Agency upon the completion of the 30 minute period from the occurrence of the alert or as soon as possible thereafter. The 30 minute period may be waived if the curfew alert is combined in an alarm state with an Immediate Notify alert. Curfew alerts include: Did Not Leave, Did Not Return, Transmitter In Range and Transmitter Out of Range.

Specified tamper alerts, not occurring during installation, shall be reported to Agency within 15 minutes of the GuardCenter's receipt of these messages or as soon as possible thereafter. Tamper alerts include: Transmitter Open Strap, Transmitter Close Strap and Tamper Unit Case.

Specified equipment status alerts shall be reported to Agency within 15 minutes of the GuardCenter's receipt of these messages or as soon as possible thereafter. Equipment status alerts include: Missed Call Late, Transmitter Not Found, Unit Battery Low, Manual Restart (not received upon initial installation), Location Verify Expired and Event Log Overflow.

Specified power fail alerts at or exceeding 30 minutes shall be reported to Agency upon the completion of the 30 minute period from the occurrence of the alert or as soon as possible thereafter. The 30 minute period may be waived if the power fail alert is combined in an alarm state with an Immediate Notify alert. Power Fail alerts include: Power Fail AC and Power Restore AC.

All other alert conditions shall be reported next day via facsimile transmission of the Daily Summary Report.

<b>ALCOHOL MONITORING DEVICE (AMD) SET-UP DATA</b>
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BAC Failure Level: .025                      Leave Window: 30                      Random BAC Test Range: 120-150

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Results Window: 30

Pressure Test: Enabled

Mode (React Only): Clued

Volume Level (React Only): High

Test on Enter: Yes

#### ALCOHOL MONITORING DEVICE (AMD) ALERT NOTIFICATION

Specified AMD alerts shall be reported to Agency within 15 minutes of the Guard Center's receipt of these messages or as soon as possible thereafter. AMD alerts include: BAC Test Failures at or exceeding .025, Failed Voice Verify, Alcohol Ignored Alert, and Failed Summons/No Show.

Specified AMD tamper alerts shall be reported to Agency within 15 minutes of the Guard Center's receipt of these messages or as soon as possible thereafter. AMD tamper alerts include: Hand Cord Disconnect (not received upon Initial Installation) and Tamper Unit Case.

Specified AMD equipment status alerts shall be reported to Agency within 15 minutes of the Guard Center's receipt of these messages or as soon as possible thereafter. AMD equipment status alerts include: Alcohol Missed Call, Missed Alcohol Test, Unit Battery Low, Manual Restart (not received upon Initial Installation), On Demand Test Failed to Connect, Test On Enter Failed to Connect and Event Log Overflow.

Specified AMD power fail alerts at or exceeding 30 minutes shall be reported to Agency upon the completion of the 30 minute period from the occurrence of the alert or as soon as possible thereafter. The 30 minute period may be waived if the AMD power fail alert is combined in an alarm state with an Immediate Notify alert. AMD power fail alerts include: Power Fail AC and Power Restore AC.

All other alert conditions shall be reported next day via facsimile transmission of the Daily Summary Report.

#### HOURS AND MEANS OF NOTIFICATION

**24 Hours/Day:** Alarm notification will be made by

**Monday-Friday 0800-1700:** Alarm notification will be made by

**Monday-Friday 1700-0800:** Alarm Notification will be made by

**Weekends and Holidays:** Alarm Notification will be made by

*Agency acknowledges that after three (3) unsuccessful attempts to notify according to the above stated procedures, that the alarm will be reported via facsimile transmission of the Electronic Monitoring Alarm Report.*

**Agency acknowledges that officers are not authorized to make revisions to the Agency notification procedures. The titles listed below are authorized to revise the Agency notification procedures outlined in this document:**

EXHIBIT C  
to the  
MONITORING SERVICE RIDER

Pursuant to Section 6 of the Monitoring Service Rider referenced above, the cost to Agency for the services rendered by BI is as follows:

**CHARGES\*:**

**Full Service -**

HomeGuard 200 Unit Rental Charge:	\$1.66 per day per Unit provided from BI inventory.
HomeGuard 200 Monitoring Service Charge:	<u>\$1.84</u> per Unit per active day.
Total HomeGuard 200 Unit Charge:	\$3.50 per Unit, per day.

**Standard Automated Service -**

HomeGuard 200 Unit Rental Charge:	\$1.66 per day per Unit provided from BI inventory.
HomeGuard 200 Monitoring Service Charge:	<u>\$1.03</u> per Unit per active day.
Total HomeGuard 200 Unit Charge:	\$2.69 per Unit, per day.

\*Agency may select the level of service (i.e. Full Service or Standard Automated Service) it will receive. All Agency Clients must be on the same level of service. Upon prior written notice to BI, Agency may change the level of service selected effective the first day of the following calendar month.

**Additional Rental Charges:**

Drive-BI Monitor:	\$1.25 per unit, per day.
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**ADDITIONAL SERVICES:**

**Loss or Damage:** During each year of the Rider, BI will pay for the cost associated with replacing lost, stolen, or damaged Units equal to, but not to exceed, five percent (5%) of the average daily total number of Units in Agency's possession. Replacement costs for HomeGuard® 200 Units above the five percent (5%) allowance are the following: HomeGuard® 200 Receiver - \$1,320.00 and HomeGuard® 200 Transmitter - \$575.00.

**Freight:** BI will pay for the cost of shipping Units and other Equipment to and from Agency.

**20% No-charge Spares:** Each month hereunder, Agency is entitled to keep a quantity of HomeGuard 200 Units equal to 20% of that month's average number of Active Units per day, in its possession at no charge (i.e.; these units are not subject to the Unit Rental Charge while not in use). The charge for any inactive HomeGuard 200 Units in excess of the 20% No-charge Spare Allowance Agency will incur a \$1.66 charge per day/per unit. Following execution of this Rider, Agency will be granted a sixty (60) day ramp-up period before billing of spares will commence.

**Reasonable Supplies:** Service includes reasonable disposable field supplies as required by Agency.

**ADDENDUM NO. 1  
GUARDWARE® ON THE WEB ADDENDUM  
TO THE  
MONITORING SERVICE RIDER**

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This Addendum is for the provision of Guardware® on the Web remote access service to the BI GuardCenter GuardWare® Computer System, as further described herein.

In consideration of the promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, desiring legally to be bound, hereby agree as follows:

**1. DEFINITIONS**

Capitalized terms used herein, and not otherwise defined shall have the meaning as set forth in the Rider:

- 1.1. "Client" means a person who is subject to Agency's electronic monitoring program.
- 1.2. "Documentation" means the on-line help, including but not limited to the Officer's Reference Manual, accessible through GWOTW regarding proper use of GWOTW.
- 1.3. "GuardWare® on the Web" or "GWOTW" means the service described in Section 2.
- 1.4. "Software" means the set of machine instructions consisting of symbolic languages, processes, and logic routines used in the operation of specific tasks in GWOTW.
- 1.5. "System" means BI's host monitoring computer system, which is located and maintained at BI's offices.
- 1.6. "Use" means utilization of the GWOTW for the purpose of accessing the System.

**2. GuardWare® on the Web**

- GWOTW allows the Agency's personnel to access BI's proprietary GuardWare software through the Internet for the purpose of entering and managing client data and schedules as described in the Documentation.

**3. GUARDWARE® TRAINING**

BI will provide an initial training session at no cost to the Agency and additional training upon request in accordance with Exhibit A. All training sessions shall be conducted via a remote service such as web conferencing.

**4. AGENCY'S OBLIGATIONS**

Agency agrees as follows:

- 4.1. to retain complete authority and responsibility for Client selection and management, including, but not limited to, Inputting, modifying and viewing of Client schedules and setting the transmitter range for each Client;
- 4.2. to protect and secure Agency access codes;
- 4.3. to use GWOTW in accordance with the terms of this Addendum.

**5. DISCLAIMER OF WARRANTIES, LIMITATION OF LIABILITY**

5.1. IN NO EVENT WILL BI BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PROVIDING, PERFORMANCE OR USE OF THE SERVICES OR THE SYSTEM PROVIDED UNDER THIS RIDER. BI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICE OR EQUIPMENT IS COMPLETE, ACCURATE, RELIABLE, ERROR FREE OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS, THAT THE PRODUCTS AND SERVICES WILL BE CONTINUOUSLY AVAILABLE, OR THAT DATA ENTERED ARE SECURE FROM UNAUTHORIZED ACCESS. IN NO EVENT DOES BI ASSUME ANY RESPONSIBILITY FOR

ACTS THAT MAY BE COMMITTED BY PERSONS SUBJECT TO OR USING THE SYSTEM. AGENCY ASSUMES FULL RESPONSIBILITY FOR ALL COSTS ASSOCIATED WITH ALL NECESSARY SERVICING OR REPAIRS OF ANY AGENCY-OWNED EQUIPMENT AGENCY USES IN CONNECTION WITH ITS USE OF THE SYSTEM.

5.2. Agency recognizes and acknowledges that information conveyed in connection with the services and on the System is transmitted using third-parties. BI makes no representations or warranties regarding carriage of this information over any communications medium which is not directly controlled by BI, including, but not limited to, wireless and land-based telecommunications infrastructures. Further, BI shall not be liable for any interruption of service or non-transfer of information due to interruptions, temporary downtime or failure to any system which is not directly in BI's control.

## **6. OWNERSHIP--CONFIDENTIALITY/NONDISCLOSURE OBLIGATIONS**

6.1. The Software, Documentation, and any and all copies thereof, whether in whole or in part, whether made by BI or anyone else, and all rights, powers and privileges which arise out of this Rider are, and shall remain at all times, the sole and exclusive property of BI. Nothing contained in this Rider shall be deemed to convey to Agency any title or ownership interest in the Software, Documentation and rights, powers and privileges that arise out of this Rider. Agency shall not directly or indirectly dispute or contest the validity of BI's rights to the Software and Documentation.

6.2. Agency further understands, acknowledges, and agrees that certain aspects of the Software are BI's trade secrets. These include, but are not limited to, the following: system design, modular program structure, system logic flow, file content, video and report format, coding techniques and routines, file handling, video screen and data entry handling, web content, and report and/or form generation. Agency agrees to hold in confidence and not disclose to any party, other than authorized employees, the Software, Documentation or any trade secrets of BI.

6.3. BI will issue Agency a password for use in accessing the System and the specific Client information for that Agency. Agency agrees to take all reasonable measures to maintain the careful control and security of the password and the Software; and shall not allow parties, except authorized employees or contractors of the Agency, access to the Software or any of its component parts. In this regard, Agency agrees that each employee or contractor, to be authorized to work with or to have access in any way to the Software, Documentation, or trade secrets hereunder, shall agree to be bound by the confidentiality, nondisclosure, use, and copying restrictions of this Rider.

6.4. Agency agrees to notify BI immediately of the existence of any circumstances surrounding any unauthorized knowledge, possession, or use of the password, Software or any part thereof by any person or entity. BI cannot be responsible for breaches in security resulting from third party access to Agency's password.

6.5. Agency shall not itself and also shall not knowingly permit any of its employees, subcontractors, or sublicensees to alter, maintain, enhance, or otherwise modify the Service or the System, other than strictly to input, access and update information relating to Clients, as permitted by this Addendum. Agency shall not reverse compile or reverse assemble or do any other operation or analysis with the Service or the System or associated software, hardware, and technology that would reveal any of BI's confidential information, trade secrets, or technology.

6.6. Agency agrees not to make any attempt to gain any unauthorized access to any other Agency's or user's account or to the systems, networks or databases of System other than Agency's specific Client information as specifically permitted herein. Violations of the System security system are prohibited and could result in criminal and civil liability.

## **7. TERMINATION**

This Addendum may be terminated for convenience by either party upon sixty (60) days prior written notification to the other party. Cessation of services and responsibilities defined in this Addendum may not take place less than sixty (60) days from the receipt of notification except in the event of neglect of responsibility by either party. No termination may take place without this notification procedure.

All notifications with respect to this Addendum shall be in writing and signed by a duly authorized representative of the party. Notification documents shall be sent to the address stated at the beginning of the Rider or such other address as provided by such party, and sent by certified mail or delivered by messenger, including overnight delivery and shall be deemed to have been given when received by the other party.

Upon proper notification neither party shall be obligated to the other in any way outside those responsibilities defined in this Addendum and the Rider. Notwithstanding, upon completion of BI services, Agency shall immediately return all property due to BI. In the event BI's Equipment, including the Software, the Documentation and other such property, which are rented from BI, are not returned within seven (7) days, Agency shall pay to BI, five dollars (\$5.00) per Unit per day until BI has all such Units and other property in its possession. BI is entitled to full payment for services rendered and accepted by Agency whether during the term of this Addendum or thereafter.

BI may terminate the license to the Software granted in Section 4, above, immediately upon the occurrence of the following events:

- 7.1. Unauthorized disclosure or copying of the Software by Agency.
- 7.2. Any attempt by Agency to transfer the Software to another party.
- 7.3. Any attempt by or on behalf of Agency to modify, decompile, disassemble, decrypt, extract or otherwise reverse engineer the Software.
- 7.4. Any attempt by the Agency to prepare derivative works from the Software.
- 7.5. Any other breach of this Addendum.

Termination of the license to the Software shall immediately terminate this Addendum.

#### **8. RIGHTS AND OBLIGATIONS UPON TERMINATION.**

The termination or expiration of this Rider shall in no way alter or modify the Agency's duty and obligation to maintain the confidentiality of the Software, Documentation and trade secrets of BI, nor alter Agency's obligation to pay for any license, maintenance, or service fees outstanding. Upon termination of this Addendum, all rights in the Software, Documentation, and other rights herein granted to Agency shall revert to BI and the license granted to Agency in this Addendum shall terminate.

#### **9. FORCE MAJEURE**

BI shall not be liable for any delay in performance or nonperformance which is due to causes beyond BI's reasonable control, including, but not limited to, war, fire, floods, sabotage, civil unrest, strikes, embargoes or delays, acts of God, acts of third parties, acts of governmental authority or any agent or commission thereof, accident, breakdown of equipment, telecommunications services – both wireless and wire systems, including cell phones, pagers, and the like, differences with employees or similar or dissimilar causes beyond BI's reasonable control.



EXHIBIT A  
TO THE  
GUARDWARE® ON THE WEB ADDENDUM  
TO THE  
MONITORING SERVICE RIDER

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**CHARGES:**

- No Charge

**Additional Training Costs:**

**Additional remote training:** From 8:00 a.m. to 5:00 p.m. Mountain Standard Time, \$120 per hour. Minimum charge of ½ hour; thereafter billed in fifteen minute increments. During all other hours, \$180 per hour; minimum charge of ½ hour; thereafter billed in fifteen minute increments.

**Additional on-site training:** \$1500 per day, 2 day minimum, plus actual out of pocket expenses for on-site training including one BI staff person's travel, room, board, and miscellaneous expenses.

ADDENDUM NO. 2  
BI CELLULAR™ ADDENDUM

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1. The following equipment shall be added to the Rider:

**BI Cellular™ Unit:** Used in conjunction with BI HomeGuard®, it enables BI's electronic monitoring services to be installed without a telephone line connected to the Client's home. Cellular telephone service must be available within the Client's home.

2. The following conditions shall be added to the Rider:

**SERVICE CONDITIONS**

Agency recognizes and acknowledges that information is transmitted via third-party telecommunications service providers. BI makes no representations or warranties regarding carriage of information over any communications medium not directly controlled by BI, including, but not limited to, wireless and "land-line" telecommunications services. Further, BI shall not be liable for any interruption of service or non-transfer of information due to interruptions, temporary downtime or other failure to any system that is not directly in BI's control. BI agrees to notify Agency as soon as is practicable in the event BI Equipment is not operational due to any such interruption.

BI SPECIFICALLY EXCLUDES ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL BI BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE PROVIDING, PERFORMANCE OR USE OF THE SERVICES OR THE EQUIPMENT PROVIDED UNDER THE RIDER. THIS LIMITATION SPECIFICALLY INCLUDES ANY CLAIMS RELATING TO ANY FAILURE OR DELAY IN PERFORMANCE HEREUNDER WHICH IS DUE, IN WHOLE OR IN PART, TO ANY CAUSE BEYOND BI'S CONTROL. BI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICE OR EQUIPMENT IS COMPLETE, ACCURATE, RELIABLE, ERROR FREE OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS, THAT THE PRODUCTS AND SERVICES WILL BE CONTINUOUSLY AVAILABLE, OR THAT DATA ENTERED ARE SECURE FROM UNAUTHORIZED ACCESS. IN NO EVENT DOES BI ASSUME ANY RESPONSIBILITY FOR ACTS THAT MAY BE COMMITTED BY PERSONS SUBJECT TO OR USING BI EQUIPMENT AND SERVICES. AGENCY ASSUMES FULL RESPONSIBILITY FOR ALL COSTS ASSOCIATED WITH ALL NECESSARY SERVICING OR REPAIRS OF ANY EQUIPMENT AGENCY USES IN CONNECTION WITH ITS USE OF BI EQUIPMENT.

3. **BI CELLULAR CHARGES**

For every BI Cellular Unit provided to Agency by BI, Agency shall pay to BI rent for each day in any given month that a BI Cellular Unit is in Agency's possession (the "BI Cellular Unit Rental Charge"). The BI Cellular Unit Rental Charge will be added to the daily Active HomeGuard Unit rate.

**BI Cellular Unit Rental Charge:**  
BI inventory.

\$4.25 per day per BI Cellular Unit provided from

RX Date/Time

03/18/2008

05:31

316 383 7055

MAR-18-2008 TUE 12:36 PM SEDG CO PURCHASING

FAX NO. 316 383 7055

P.002

P. 02



## SEDGWICK COUNTY, KANSAS

## DIVISION OF FINANCE

## Purchasing Department

601 N. Main, Suite B : Wichita, KS 67203 : Telephone (316) 660-7255 : Fax (316) 383-7055

March 18, 2008

BI Incorporated  
ATTN: Laurent Lepoulre  
6100 Lookout Road  
Boulder, CO 80301

RE: RFB #06-0008

Per the agreement entered into June 1, 2006 and all addendum since, for contracting with Sedgwick County to furnish Day Reporting Services, for Corrections Department. Sedgwick County desires to renew the contract term for one (1) additional year, per the Request for RFB #06-0008. This term will last from June 1, 2008 to May 31, 2009.

Compensation, terms, and conditions shall remain as originally stated in the contract agreement. Please sign in the areas below and return via fax or mail to:

Purchasing Department  
Attn: Dallas R. Shaffer, C.P.M.  
525 N. Main, Suite 823  
Wichita, KS. 67203  
Fax 316-383-7055

Should you have any questions please feel free to contact me at the above number. Thank you for your interest in doing business with Sedgwick County. We look forward to working with you in the future.

Sincerely,

Dallas R. Shaffer, C.P.M.  
Purchasing Agent  
Sedgwick County, Kansas

Date:

4-1-08

Michael E. Harkerd  
BI Incorporated

Date:

3-31-08

"Sedgwick County...Working For You."

SECOND ADDENDUM TO SERVICES AGREEMENT  
by and between:

SEDGWICK COUNTY, KANSAS

AND

BI INCORPORATED

---

THIS ADDENDUM, made and entered into this 17 day of June, 2008, by and between Sedgwick County, Kansas (hereinafter referred to as "Agency") and BI Incorporated, a Colorado corporation that is registered to transact business in the State of Kansas (hereinafter referred to as "BI").

WHEREAS, Agency and BI previously entered into a Services Agreement dated June 1, 2006, that provided for, inter alia, the monitoring of participants within a program administered by the Sedgwick County Department of Corrections; and

WHEREAS, Agency and BI previously entered into an Addendum to Services Agreement dated December 19, 2007 to expand the existing Services Agreement; and

WHEREAS, Agency desires to further expand the existing Services Agreement by engaging BI to perform additional alcohol monitoring services, as described in the attached Exhibit D.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto agree as follows:

1. The attached Exhibit D to the Monitoring Service Rider to the Addendum to Services Agreement is hereby added to the Services Agreement.
2. Term. The initial term of this Addendum shall be effective upon execution of the parties and shall coincide with, and be made a part of the same terms as, the Services Agreement dated June 1, 2006. This Addendum may then be renewed at Agency's option on the same schedule as the June 1, 2006 Services Agreement.
3. Compensation. Agency agrees to pay and BI agrees to accept as compensation for the Services provided pursuant to this Agreement the compensation amount set forth in Exhibit D.
4. Entire Agreement. The Services Agreement dated June 1, 2006 and Appendices thereto, the previous Addendum dated December 19, 2007 and appendices and attachments thereto, and this Addendum and the attachments hereto, contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, or of any force or effect.
5. Authority. Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

Witness our signatures the day and year first above written.

BI INCORPORATED

By: *Michael E. Hankerd*  
Printed Name: Michael E. Hankerd  
Printed Title: Corporate Controller

SEDGWICK COUNTY, KANSAS

*Jris Baker*  
Printed Name: Jris Baker  
Printed Title: Purchasing Director



ATTEST:

*Brent W. Shelton*  
Printed Name: Brent W. Shelton  
Printed Title: Chief Deputy County Clerk

APPROVED AS TO FORM

*Bill H. Raymond*  
Printed Name: BILL H. RAYMOND  
Printed Title: ASST. COUNTY ATTORNEY

EXHIBIT D  
to the  
MONITORING SERVICE RIDER

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OPTIONAL MONITORING SYSTEMS

**OPTIONAL - ALCOHOL MONITORING DEVICE**

**Description**

The Alcohol Monitoring Device is a remote alcohol testing system used to administer unsupervised breath tests. It measures compliance with an alcohol abstinence condition of supervision.

The hand-held device has sensors that confirm the continuous presence of the subject's face against the mask, and a voice verification process determines that only the enrolled subject actually executes the breath test.

**Sobriety Pricing:**

**Unit Rental Charge:** \$1.94 per unit, per day for units provided from BI inventory.

**Monitoring Service Charge:** \$2.05 per unit, per day. Total daily rate will be \$3.99.

**Loss or Damage:** During each year of the Agreement, BI will pay for the cost associated with replacing lost, stolen, or damaged Units equal to, but not to exceed, five percent (5%) of the average daily total number of Units in Agency's possession. The replacement cost for BI Sobriety Units above the five percent (5%) allowance is \$2,195.00 each.

**20% No-charge Spares:** Each month hereunder, Agency is entitled to keep a quantity of Units equal to 20% of that month's average number of Active Units per day, in its possession at no charge (i.e.; these units are not subject to the Unit Rental Charge while not in use). For any inactive units in excess of the 20% No-charge Spare Allowance, Agency will incur a \$1.94 charge per day/per unit. Following execution of this Agreement, Agency will be granted a sixty (60) day ramp-up period before billing of spares will commence.

**CITY OF WICHITA**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Modification of Day Reporting Center Agreement Regarding Lease and Guaranty (District VI)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the Second Agreement Regarding Lease and Guaranty.

**Background:** On December 5, 2000 the Department of Corrections of the State of Kansas (DOC) and Community Solutions, Inc. (CSI) for the operation of a day reporting center in Wichita. On October 16, 2001, the City Council designated 703 East 21<sup>st</sup> Street North as the preferred location for a Day Reporting Center. As part of the negotiations for the site, on January 8, 2002, the City Council approved a Lease Guaranty Agreement and Construction Funding Agreement by which the City guaranteed the rents in a ten-year lease between Webb Road Development, Inc. as landlord and CSI. On December 13, 2005, the City Council approved an assignment of the lease and guaranty from CSI to BI, Inc. On June 1, 2006, BI, Inc. entered into a services agreement with Sedgwick County to provide day reporting services for the County.

**Analysis:** DOC advised BI, Inc. that they were terminating the contract for operation of the day reporting center effective January 15, 2009. BI, Inc. has requested the lease and guaranty be modified to remain in full force and effect despite the termination by the DOC to allow BI, Inc. to continue to provide services to Sedgwick County. If the modification does not occur, the landlord would need to choose between allowing BI to continue to lease the facility without a guaranty or to terminate the lease with BI and look to the City to act on the guarantee. The landlord has indicated that they would seek to cancel the lease if no modification occurs. The proposed modification makes no significant change to the City's rights or obligations under the existing agreements.

**Financial Considerations:** *If the lease were terminated and the City's guaranty called upon, the terms of the guaranty would obligate the City (subject to available appropriations) to pay approximately \$287,000 (the amount of scheduled rent for the remainder of the ten-year guaranteed lease term, at \$7,000/month). If the City approves the modification, the lease would continue as modified and BI might be able to continue to pay the scheduled rent for all or part of the guaranteed term (ending in 2012), such that the City guaranty might not be called upon, or might be called upon in a lesser amount than if the lease were terminated this month.*

**Goal Impact:** Promotes a safe and secure community by providing additional alternative correctional options.

**Legal Considerations:** The Law Department has approved the agreement as to form

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Second Agreement Regarding Lease and Guaranty and 2) Authorize the necessary signatures.

**Attachments:** Second Agreement Regarding Lease and Guaranty



City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Agreement for Design Services for Monarch Landing 2nd Addition (north of 21st, west of 159th Street East) (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Agreement.

**Background:** The City Council approved the water, sanitary sewer and paving improvements in Monarch Landing 2nd Addition on October 16, 2007.

**Analysis:** The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water, sanitary sewer and paving in Monarch Landing 2nd Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

**Financial Considerations:** Payment to MKEC will be on a lump sum basis of \$47,455 and will be paid by special assessments.

**Goal Impact:** This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water, sanitary sewer and paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

**Legal Considerations:** The Agreement has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

**Attachments:** Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

MONARCH LANDING 2<sup>ND</sup> ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

**WATER DISTRIBUTION SYSTEM NO. 448 90335** serving Lots 1 through 12, and 14 through 29, Block 1; Lots 11 through 21, Block 3, Monarch Landing 2<sup>nd</sup> Addition (north of 21<sup>st</sup>, west of 159<sup>th</sup> Street East) (Project No. 448 90335).

**LATERAL 2, MAIN 24, FOUR MILE CREEK SEWER** serving Lots 1 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 21, Block 3; Lots 1 through 6, Block 4, Monarch Landing 2<sup>nd</sup> Addition and Unplatted Commercial Tract 2 (north of 21<sup>st</sup>, west of 159<sup>th</sup> Street East) (Project No. 468 84433).

**MAINS GATE/CHELMSFORD/CHELMSFORD COURTS** from the east line of Lot 10, Block 3, to the north line of Lot 13, Block 1; **CHELMSFORD COURT** serving Lots 13 through 21, Block 3; from the west line of Chelmsford to and including the cul-de-sac; **FLUTTER CIRCLE** serving Lots 1 through 9, Block 1, from the north line of 24<sup>th</sup> Street to and including the cul-de-sac (north of 21<sup>st</sup>, west of 159<sup>th</sup> Street East) (Project No. 472 84613).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Monarch Landing 2<sup>nd</sup> Addition and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90335	<b><u>\$ 8,000.00</u></b>
Project No. 468 84433	<b><u>\$11,030.00</u></b>
Project No. 472 84613	<b><u>\$28,425.00</u></b>
<b>TOTAL</b>	<b><u>\$47,455.00</u></b>

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a

waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carl Brewer, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

\_\_\_\_\_  
(Name & Title)

ATTEST:

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per Attachment No. 1.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Storm Water Pollution Prevention. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.
3. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. Drainage Study. When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
7. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
8. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each in-

involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

9. All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
10. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
11. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
12. The ENGINEER shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
13. Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.
14. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by **120 days from Notice to Proceed.** (Project No. 448 90335).
  - b. Plan Development for the sewer improvements by **120 days from Notice to Proceed.** (Project No. 468 84433).
  - c. Plan Development for the paving improvements by **120 days from Notice to Proceed.** (Project No. 472 84613).

## **Attachment No. 1 to Exhibit “A” – Scope of Services**

### **Plan Submittal**

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

Paper plan submittals for KDOT projects (i.e. Field Check, ULCC, Final Check, etc.) will not change and the cover sheet mylar will be required for all projects for signature purposes. Projects that have water lines incorporated into the project are required to have those pages in a mylar format. The complete project must be submitted in a scalable .pdf format.

In addition, two (2) sets of 11”x17” plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Environmental Services  
1900 E. 9<sup>th</sup> St. North  
Wichita, KS 67214

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer’s estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City’s current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.



City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Change Order: Storm Water Drain in Woods North Addition (south of 29<sup>th</sup> St. North, west of 127<sup>th</sup> St. East) (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Change Order.

**Background:** On March 4, 2008, the City Council approved a construction contract with Nowak Construction, Inc. to construct a storm water drain in Woods North Addition. After the project was let, it was determined that streets in the addition would be constructed at a higher elevation than planned in order to provide the required protective fill over a gas pipeline. As a result, a detention pond was excavated deeper than planned and was lined with bentonite to prevent leaking.

**Analysis:** A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

**Financial Considerations:** The total cost of the additional work is \$26,586 with the total paid by Special Assessments. The original contract amount is \$842,625. This Change Order represents 3.16% of the original contract amount.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by proving drainage improvements required for new development.

**Legal Considerations:** The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

**Recommendation/Action:** It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

**Attachments:** Change Order.



PUBLIC WORKS-ENGINEERING

October 16, 2008

**CHANGE ORDER**

To: Nowak Construction Co., Inc.

Project: Storm Water Drain #346 to serve Woods North Addition tied w/Lateral 1, Main 26 Four Mile Creek Sewer and Main 26 Four Mile Creek to serve Woods North Addition (south of 29th St. North, west of 127th St. East)

Project No.: 468-84487/468-84485

OCA No.: 751467/744274

PPN: 485358/480963

Change Order No.: 1

Purchase Order No.: 800250

CHARGE TO OCA No.: 751467=\$25,926.10  
744274=\$ 660.00

Please perform the following extra work at a cost not to exceed \$ 26,586.10

The entrance to Woods North Addition on Woodspring Street crosses over the Conoco Phillips Gas Line. Conoco Phillips required more protective fill over their line, so the street had to be raised. Since Woodspring Street had to be raised, the developer requested to also raise Davin and Garnett Street, so as to build view out lots (Please see attached). To gain additional dirt, Reserve "I" was excavated 2.5' deeper, which then required more bentonite. Reserve "I" calls out for all storm sewer ends to be below the static water elevation. To prevent the pond from leaking, concrete collars will be added to each storm sewer entering the pond. Also, one additional riser was added to Lot 41, Block D due to the depth being greater than 12 feet.

CIP Budget Amount: \$822,000.00 (751467)  
\$424,000.00 (744274)

Consultant: Baughman  
Total Exp. & Encum. To Date: \$661,865.01 (751467)  
\$322,644.54 (744274)

CO Amount: \$26,586.10  
Unencum. Bal. After CO: \$134,208.89 (751467)  
\$100,695.46 (744274)

Original Contract Amt.: \$842,625.21

Current CO Amt.: \$26,586.10  
Amt. of Previous CO's: \$0.00  
Total of All CO'S: \$26,586.10  
% of Orig. Contract / 25% Max.: 3.16%  
Adjusted Contract Amt.: \$869,211.31

**Recommended By:**

\_\_\_\_\_  
Greg Baalman, P.E.  
Construction Engineer

\_\_\_\_\_  
Date

**Approved:**

\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer

\_\_\_\_\_  
Date

**Approved:**

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

**Approved:**

\_\_\_\_\_  
Chris Carrier, P.E.  
Director of Public Works

\_\_\_\_\_  
Date

**Approved as to Form:**

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Date

**By Order of the City Council:**

\_\_\_\_\_  
Carl Brewer  
Mayor

\_\_\_\_\_  
Date

**Attest:** \_\_\_\_\_  
City Clerk

City of Wichita  
City Council Meeting  
January 6, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Change Order: Waterman Improvement, between Main and Washington  
(District I)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

-----

**Recommendation:** Approve the Change Order.

**Background:** On March 27, 2007, the City Council approved a construction contract with Dondlinger & Sons Construction for improvements to Waterman, between Main Street and Washington. The City/County Coordination Agreement for the Intrust Arena provides for improvements to the Waterman railroad overpass immediately east of the arena. The agreement also provides that the work will be done by Change Order to the City's contract for Waterman Street drainage and paving improvements. The cost of the Change Order will be fully reimbursed by Sedgwick County.

**Analysis:** A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

**Financial Considerations:** The total cost of the additional work is \$168,509 with the total paid by Sedgwick County. The original contract amount is \$6,776,498. This Change Order plus previous change orders represents 4.12% of the original contract amount.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing improvements for the Intrust Arena.

**Legal Considerations:** The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

**Recommendation/Action:** It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

**Attachments:** Change Order.



PUBLIC WORKS-ENGINEERING

November 18, 2008

**CHANGE ORDER**

**To:** Dondlinger & Sons Const. Co., Inc.

**Project:** Waterman Drainage & Paving  
Improvements, phase 2 & 48" SE Water Supply  
Line, Phase 1B

**Change Order No.:** 10

**Project No.:** 468-84167a

Purchase Order No.: 700363

**OCA No.:** 751422/633791/620473

**CHARGE TO OCA No.:** 751422

**PPN:** 485313/757001/667591

**Please perform the following extra work at a cost not to exceed \$168,508.87**

The City/County Construction Coordination Agreement for the Arena area infrastructure improvements includes provisions for Sedgwick County to fund and administer a project to provide improvements for the Waterman railroad overpass immediately east of the Arena. The approved agreement also states that the City shall provide the funding mechanism for this work, which is to be completed by the City's contractor for the Waterman Street drainage and paving improvements. *The cost of this Change Order will be fully reimbursed by Sedgwick County.*

**ADD ITEMS:**

Lump Sum Items (751422)

Railroad Overpass Improvements	1	LS	168,508.87	=	\$168,508.87
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**CIP Budget Amount: \$7,325,000 (751422)**

**\$3,000,000 (633791); \$115,000 (620473)**

**Consultant: PEC**

**Total Exp. & Encum. To Date: \$6,610,849.05 (751422)**

**CO Amount: \$168,508.87**

**Uncneum. Bal After CO: \$545,642.08 (751422)**

**Original Contract Amt.: \$6,776,497.80**

**Current CO Amt.: \$168,508.87**

**Amt. of Previous CO's: \$110,924.93**

**Total of All CO's: \$279,433.80**

**% of Orig. Contract / 25% Max.: 4.12%**

**Adjusted Contract Amt.: \$7,055,931.60**

**Recommended By:**

\_\_\_\_\_  
Greg Baalman, P.E.  
Construction Engineer

\_\_\_\_\_  
Date

**Approved:**

\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer

\_\_\_\_\_  
Date

**Approved:**

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

**Approved:**

\_\_\_\_\_  
Chris Carrier, P.E.  
Director of Public Works

\_\_\_\_\_  
Date

**Approved as to Form:**

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Date

**By Order of the City Council:**

\_\_\_\_\_  
Carl Brewer  
Mayor

\_\_\_\_\_  
Date

**Attest:**

\_\_\_\_\_  
City Clerk

City of Wichita  
City Council Meeting  
January 6, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Change Order: Kellogg Drainage Improvement at Zelta (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

-----

**Recommendation:** Approve the Change Order.

**Background:** On October 7, 2008, the City Council approved a construction contract with Cornejo & Sons, Inc. to construct drainage improvements at Kellogg and Zelta. A part of the work is the detour of traffic through the construction zone on temporary pavement. After the project was let it was determined that for reasons of safety, a storm water sewer is needed in the median where a crossover detour will move traffic between the east bound and west bound lanes.

**Analysis:** A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

**Financial Considerations:** The cost of the additional work is \$85,758 with the total paid by Local Sales Tax Funds. The original contract amount is \$946,697. This Change Order represents 9.06% of the original contract amount.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving traffic capacity and safety along a vital transportation corridor.

**Legal Considerations:** The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

**Recommendation/Action:** It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

**Attachments:** Change Order.



PUBLIC WORKS-ENGINEERING

November 4, 2008  
**CHANGE ORDER**

To: Cornejo & Sons, Inc.

Project: Storm Sewer across Kellogg  
between Ellison and Zelta

Change Order No.: 1

Project No.: 54-87KA1102-01 / 472-84632

Purchase Order No.: 801136

OCA No.: 705001

CHARGE TO OCA No.: 705001

PPN: 401501

Please perform the following extra work at a cost not to exceed **\$ 85,758.00**

Existing Pavement on East Kellogg drains to the center median; a storm water system will need to be installed in the cross-over pavement for traffic control changes to install the storm water improvements. These improvements will remain in place until East Kellogg is reconstructed.

**ADD:**

Regrade median to revised profile	1LS. @ \$2,540.00 / LS. =	\$2,540.00
Install slot drainage system	1 LS @ \$82,910.00 / LS =	\$82,910.00
Install concrete apron along slot drain	1 LS @ \$12,200.00 / LS =	\$12,200.00
U-channel post w/ reflectors (Measured Quantity)	220 ea. @ \$37.40 / ea. =	\$8,228.00

**UNDER-RUN:**

Deduct asphalt strip (Measured Quantity)	1 LS @ \$6,120.00 / LS =	(\$6,120.00)
Deduct asphalt demo and grass restoration (Measured Quantity)	1LS @ \$14,000.00 / LS =	(\$14,000.00)
	<b>TOTAL</b>	<b>\$85,758.00</b>

**CIP Budget Amount: \$2,490,000.00**  
**Consultant: CF&S**  
**Total Exp. & Encum. To Date: \$1,915,355.06**  
**CO Amount: \$85,758.00**  
**Unencum. Bal. After CO: \$486,886.94**

**Original Contract Amt.: \$946,697.00**  
**Current CO Amt.: \$85,758.00**  
**Amt. of Previous CO's: \$0.00**  
**Total of All CO's: \$85,758.00**  
**% of Orig. Contract / 25% Max.: 9.06%**  
**Adjusted Contract Amt.: \$1,032,455.00**

**Recommended By:**

**Approved:**

\_\_\_\_\_  
Lawrence Schaller, P.E.  
Construction Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer

\_\_\_\_\_  
Date

**Approved:**

**Approved:**

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chris Carrier, P.E.  
Director of Public Works

\_\_\_\_\_  
Date

**Approved as to Form:**

**By Order of the City Council:**

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Date

\_\_\_\_\_  
Carl Brewer  
Mayor

\_\_\_\_\_  
Date

**Attest:** \_\_\_\_\_

City Clerk

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Change Order: 13<sup>th</sup> St. Bridge at the Little Arkansas River  
(District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

-----

**Recommendation:** Approve the Change Order.

**Background:** On December 4, 2007, the City Council approved a construction contract with King Construction Company to reconstruct the 13<sup>th</sup> St. Bridge at the Little Arkansas River. After the project was let, a number of additional work items were required that should be addressed by change order. They include the cost of Carthalite restoration, reinforcing steel in the bridge deck, the amount of sidewalk overlay material, the amount of the deck crack repair, handrail replacement and retaining wall replacement. Additional safety lighting was added under the bridge for the new bikepath. The cost of the additional work was largely offset by a significant under run of the cost of temporary bracing for concrete beams and a number of other items.

**Analysis:** A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

**Financial Considerations:** The total cost of the additional work is \$12,987 with the total paid by City General Obligation Bonds. The original contract amount is \$2,611,519. This Change Order plus a previous change order represents 4.14% of the original contract amount.

**Goal Impact:** This project addresses the Efficient Infrastructure goal with the rehabilitation of a historic bridge at a major transportation route.

**Legal Considerations:** The Law Department has approved the Change Order as to legal form.

**Recommendation/Action:** It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

**Attachments:** Change Order.

**To:** King Construction Co., Inc.

**Project:** 13th Street Bridge Rehabilitation  
over the Little Arkansas River (13th Street  
North, west of Waco)

**Change Order No.:** 2

**Project No.:** 87TE-0284-01/472-84422

**Purchase Order No.:** 701460

**OCA No.:** 715705

**CHARGE TO OCA No.:** 715705

**PPN:** 245121

**Please perform the following extra work at a cost not to exceed \$12,987.26**

Alternative methods were needed to complete historic preservation of the artistic elements. Contractor gives credit for temporary diaphragms not used while construction the bridge. Lights were added for the newly constructed bike path under the bridge. Adjust measured quantity bid items based on final field measurements. See attached.

**CIP Budget Amount:** \$3,205,000.00

**Original Contract Amt.:** \$2,611,518.54

**Consultant:** PB

**Current CO Amt.:** \$12,987.26

**Exp. & Encum. To Date:** \$3,030,784.30

**Amt. of Previous CO's:** \$95,243.88

**CO Amount:** \$12,987.26

**Total of All CO's:** \$108,231.14

**Unencum. Bal. After CO:** \$161,228.14

**% of Orig. Contract / 25% Max.:** 4.14%

**Adjusted Contract Amt.:** \$2,719,749.68

**Recommended By:**

**Approved:**

\_\_\_\_\_  
Greg Baalman, P.E.  
Construction Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer

\_\_\_\_\_  
Date

**Approved:**

**Approved:**

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chris Carrier, P.E.  
Director of Public Works

\_\_\_\_\_  
Date

**Approved as to Form:**

**By Order of the City Council:**

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Date

\_\_\_\_\_  
Carl Brewer  
Mayor

\_\_\_\_\_  
Date

**Attest:** \_\_\_\_\_  
City Clerk



**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** Change Order: 17<sup>th</sup> Street Drainage Improvement at the Central Railroad Corridor (District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

-----

**Recommendation:** Approve the Change Order.

**Background:** On January 8, 2008, the City Council approved a construction contract with Wildcat Construction Co. for drainage improvements along 17<sup>th</sup> Street through the Central Railroad Corridor. During excavation for the drainage structure, an existing 42" waterline ruptured in the work zone and was immediately repaired.

**Analysis:** A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget and Water Department budget.

**Financial Considerations:** The total cost of the additional work is \$94,909 with \$71,182 paid by the Storm Water Utility and \$23,727 paid by the Water Utility. The original contract amount is \$386,358. This Change Order represents 24.5% of the original contract amount.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving drainage in the industrial area near the Central Railroad Corridor.

**Legal Considerations:** The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

**Recommendation/Action:** It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

**Attachments:** Change Order.



PUBLIC WORKS-ENGINEERING

December 17, 2008  
**CHANGE ORDER**

**To:** Wildcat Construction Co. Inc.

**Change Order No.:** 1

**Purchase Order No.:** 701652

**CHARGE TO OCA No.:** 706953 = \$71,181.52

188425 = \$23,727.17 (by DP)

**Project:** 17<sup>th</sup> Street N. Drainage Improvements Ph 2

**Project No.:** 472-84392A

**OCA No.:** 706953, 188425

**PPN:** 206419, N/A

**Please perform the following extra work at a cost not to exceed \$94,908.69:**

Construct new Thrust Block restraint and repair 42" Waterline at 17<sup>th</sup> Street North and Santa Fe.

ADD Item:

Thrust Block restraint & 42" WL Repair (**706953**) 1 @ \$71,181.52 = \$71,181.52

Thrust Block restraint & 42" WL Repair (**188425**) 1 @ \$23,727.17 = \$23,727.17

**TOTAL** \$94,908.69

CIP Budget Amount: \$1,600,000.00 (706593),

Original Contract Amt.: \$386,357.50

Current CO Amt.: \$94,908.69

**Consultant: MKEC & TranSystems**

**Amt. of Previous CO's: \$0.00**

**Total Exp. & Encum.: \$979,468.08 (706593)**

**Total of All CO's: \$94,908.69**

**CO Amount: \$94,908.69**

**% of Orig. Contract / 25% Max.: 24.5%**

**Unencum. Bal. After CO: \$549,350.40 (706593)**

**Adjusted Contract Amt.: \$481,266.19**

**Recommended By:**

**Approved:**

\_\_\_\_\_  
Michael G. Jacobs, P.E.  
Special Projects Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer

\_\_\_\_\_  
Date

**Approved:**

**Approved:**

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chris Carrier, P.E.  
Director of Public Works

\_\_\_\_\_  
Date

**Approved as to Form:**

**By Order of the City Council:**

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Date

\_\_\_\_\_  
Carl Brewer  
Mayor

\_\_\_\_\_  
Date

**Attest:**\_\_\_\_\_

City Clerk

**CITY OF WICHITA**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Acquisition of a portion of 796 North Saint Paul for the 9<sup>th</sup> Street Drainage Outfall Project (District VI)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the acquisition.

**Background:** The 9<sup>th</sup> Street Drainage Outfall project will provide additional storm water drainage for the area bounded by West Street, Central, 13<sup>th</sup> Street and McLean. The project requires the acquisition of easements over five tracts. One of the impacted parcels is located at 796 North St. Paul. The site consists of 19,500 square feet and is zoned residential. The site is improved with a church. The project will not directly impact the improvements but will encroach into the parking area. A 2,250 square foot permanent easement and a 3,750 square foot temporary easement are required.

**Analysis:** The proposed acquisition was valued at \$1,125 (\$.50 per square foot) for the permanent easement and \$375 (\$.10 per square foot) for the temporary easement. The owner has accepted the offered amount.

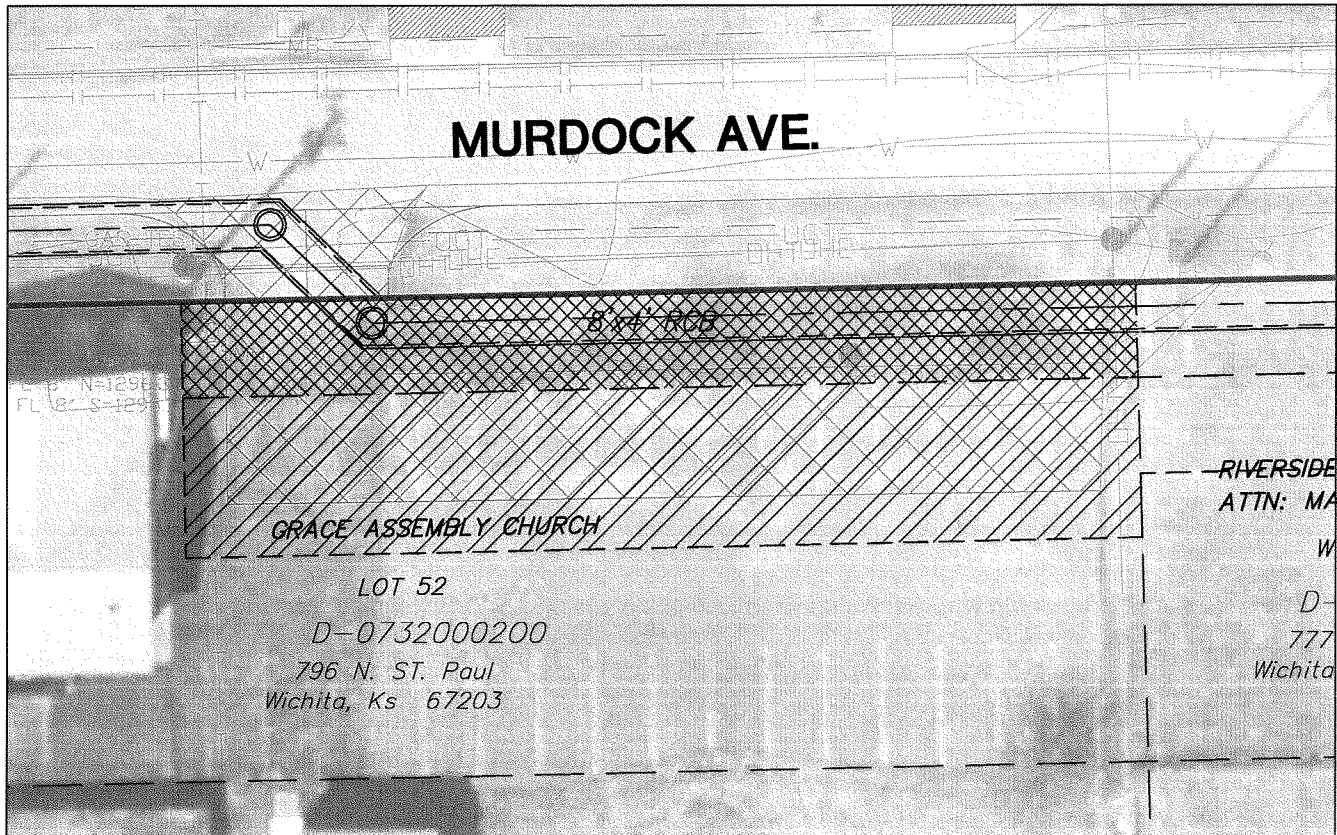
**Financial Considerations:** The funding source for the project is General Obligation Bonds. A budget of \$2,000 is requested. This includes \$1,500 for acquisition and \$500 for closing costs and title insurance.

**Goal Impact:** The acquisition of this parcel is necessary to ensure efficient infrastructure by improving the traffic flow through a major transportation corridor.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

**Attachments:** Tract map/aerial and real estate purchase agreement.

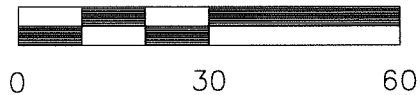


### LEGAL DESCRIPTION:

#### Temporary Construction Easement:

The south 25.00 feet of the north 40.00 feet of the east 150.00 feet of Lot 52, Sim Park Gardens, Sedgwick County, Kansas.

SCALE: 1"=30'






### LEGAL DESCRIPTION:

#### Easement Area:

The north 15.00 feet of east 150.00 feet of Lot 52, Sim Park Gardens, Sedgwick County, Kansas.

### LEGEND:

-  Temporary Construction Esmt. Area = 3,750 s.f.
-  Easement Area = 2,250
-  Right of Way / Property line



### Owner:

Attn: Jack Davis  
Grace Assembly Church  
796 N. St. Paul  
Wichita, KS 67203

### Tax Key Property Identification:

D 073200020

**MKEC**  
ENGINEERING  
CONSULTANTS, INC.

411 N. WEBB ROAD  
WICHITA, KS. 67206  
316 - 684 - 9600

**West Street to Arkansas River  
9th Street Storm Sewer Outfall**

PROJECT NAME

**TRACT MAP - Easement Exhibit**

SHEET TITLE

JRA DESIGN BY:	BDL DRAWN BY:	JRA / JCM CHECKED BY:
July 2008 DATE	06205 v2 JOB NO.	1 / 1 SHEET/OF

## REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2008 by and between, Grace Assembly Church, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a Municipal Corporation, hereinafter referred to as "Buyer," whether one or more.

**WITNESSETH:** That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient warranty deed for the following described real property, situated in Sedgwick County, Kansas, to wit:

The North 15.00 feet of the east 150.00 of Lot 52, Sim Park Gardens Addition, Wichita, Sedgwick County, Kansas

2. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient temporary construction easement for the following described real property, situated in Sedgwick County, Kansas, to wit:

The South 25.00 feet of the North 40.00 feet of the East 150.00 feet of Lot 52, Sim Park Gardens Addition, Wichita, Sedgwick County, Kansas

3. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above described real property the sum of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00) in the manner following, to-wit: cash at closing.

4. A complete abstract of title certified to date, or a title insurance commitment to insure to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required.

The Title Evidence shall be sent to City of Wichita, KS, Property Management Division for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

Buyer will order title at its cost.

5. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

6. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before January 31, 2009.

7. The Seller further agrees to convey the above described premises and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted. That portion of the existing parking lot required to be removed by project construction will be saw cut and replaced after construction in a manner consistent with the existing parking lot.

8. Construction equipment shall not be parked or stored on the temporary easement area without the prior consent of Seller.

9. To the degree possible, dirt from construction shall be stored on public right of way or adjacent property. Any damage to the site caused by temporary use for construction will be repaired in a manner consistent with current condition.

10. Possession to be given to Buyer on closing date.

11. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100% by buyer. Buyer will pay 100% closing costs.

12. Buyer and Seller agree that construction shall not occur on this site during the period of March ~~15~~<sub>6</sub> to March ~~15~~<sub>8</sub>, 2009.

13. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted, at Buyer's expense, an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to the seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

**WITNESS OUR HANDS AND SEALS** the day and year first above written.

**SELLER:**

Grace Assembly Church

Pastor Jack Davis

**BUYER:**

By Direction of the City Council

**ATTEST:**

Carl Brewer, Mayor

Karen Sublett, City Clerk

**Approved as to Form:**

Gary E. Rebenstorf, Director of Law

**CITY OF WICHITA**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Acquisition by Eminent Domain of a portion of 3633 West Zoo Boulevard for the 9<sup>th</sup> Street Drainage Outfall Project (District VI)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

-----  
**Recommendation:** Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real properties.

**Background:** The 9<sup>th</sup> Street Drainage Outfall project will provide additional storm water drainage for the area bounded by West Street, Central, 13<sup>th</sup> Street and McLean. The project requires the acquisition of easements over five tracts. One of the impacted parcels is located at 3633 West Zoo Boulevard. The site consists of 16,550 square feet and is zoned residential. The site is improved with a 1,556 square foot single family residence. The project will not directly impact the improvements but does call for a drainage structure to be laid under the drive way. A 988 square foot permanent easement and a 989 square foot temporary easement are required.

**Analysis:** This property was foreclosed on in 2007. Attempts to contact the bank that foreclosed on the property have been unsuccessful. Due to project timing, eminent domain is necessary. If contact can be established with the lender, negotiations will continue during the eminent domain process.

**Financial Considerations:** The cost of this acquisition is to be paid by the City at large.

**Goal Impact:** The acquisition of this parcel is necessary to ensure efficient infrastructure by improving storm water issues in a major residential area.

**Legal Considerations:** The City is authorized by law to commence eminent domain proceedings to acquire this property.

**Recommendation/Action:** Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District court to accomplish such acquisition.

**Attachments:** Tract maps/aerials, condemnation resolution and condemnation ordinance.

Published in the Wichita Eagle on January 9, 2008

**RESOLUTION NO. 09-014**

**A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN THE CONSTRUCTION OF THE 9<sup>TH</sup> STREET DRAINAGE OUTFALL PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS.**

WHEREAS, the governing body has previously authorized the study and the preliminary design of certain improvements to the storm water drainage system in the area of McLean Avenue, West Street, 13<sup>th</sup> Street North and Central Avenue; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with improvement of the storm water drainage system in the area bounded by McLean Avenue, West Street, 13<sup>th</sup> Street North and Central Avenue.

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

SECTION 3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 6th day of January, 2009.

**CITY OF WICHITA**

\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



PUBLISHED IN THE WICHITA EAGLE ON \_\_\_\_\_

ORDINANCE NO. 48-163

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION OF THE 9<sup>TH</sup> STREET DRAINAGE OUTFALL PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way and easements for improvement of storm water drainage in the area of McLean Avenue, West Street, Central Avenue and 13<sup>th</sup> Street North in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

A permanent easement for the construction, maintenance, and repair of storm sewer and utility systems along and under the following described tract, to-wit:

A 20.00 feet wide tract of land lying in Lot 43, West Ridge Acres, Sedgwick County, Kansas, said 20.00 feet wide tract of land lying 10.00 feet on each side of the following described line: Commencing at a point on the east line of Kessler Avenue as condemned in Condemnation Case A 67423 and the south line of Bickel Avenue (now Zoo Boulevard) as platted in West Ridge Acres, Wichita, Sedgwick County, Kansas; thence southeasterly along the northerly line of Lot 43, said Addition, and the south line of said Bickel Avenue, 76.09 feet to the Point of Beginning; thence southwesterly 49.42 feet to the Point of Termination, said point lying on the east line of said condemnation case and 72.69 feet south of the Point of Commencement.

And temporary construction easements for the construction of a storm sewer system and pavement along and under the following-described tracts, to-wit:

The northerly 10.00 feet and the southerly 10.00 feet of a 40.00 feet wide tract of land lying in Lot 43, West Ridge Acres, Sedgwick County, Kansas, said 40.00 feet wide tract being centered on the following described line: Commencing at a point on the east line of Kessler Avenue as condemned in Condemnation Case A 67423 and the south line of Bickel Avenue (now Zoo Boulevard) as platted in West Ridge Acres, Wichita, Sedgwick County, Kansas; thence southeasterly along the northerly line of Lot 43, said Addition, and the south line of said Bickel Avenue, 76.09 feet to the Point of Beginning; thence southwesterly 49.42 feet to the Point of Termination, said point lying on the east line of said condemnation case and 72.69 feet south of the Point of Commencement.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this \_\_\_\_\_ day of, \_\_\_\_\_ 2009.

**CITY OF WICHITA**

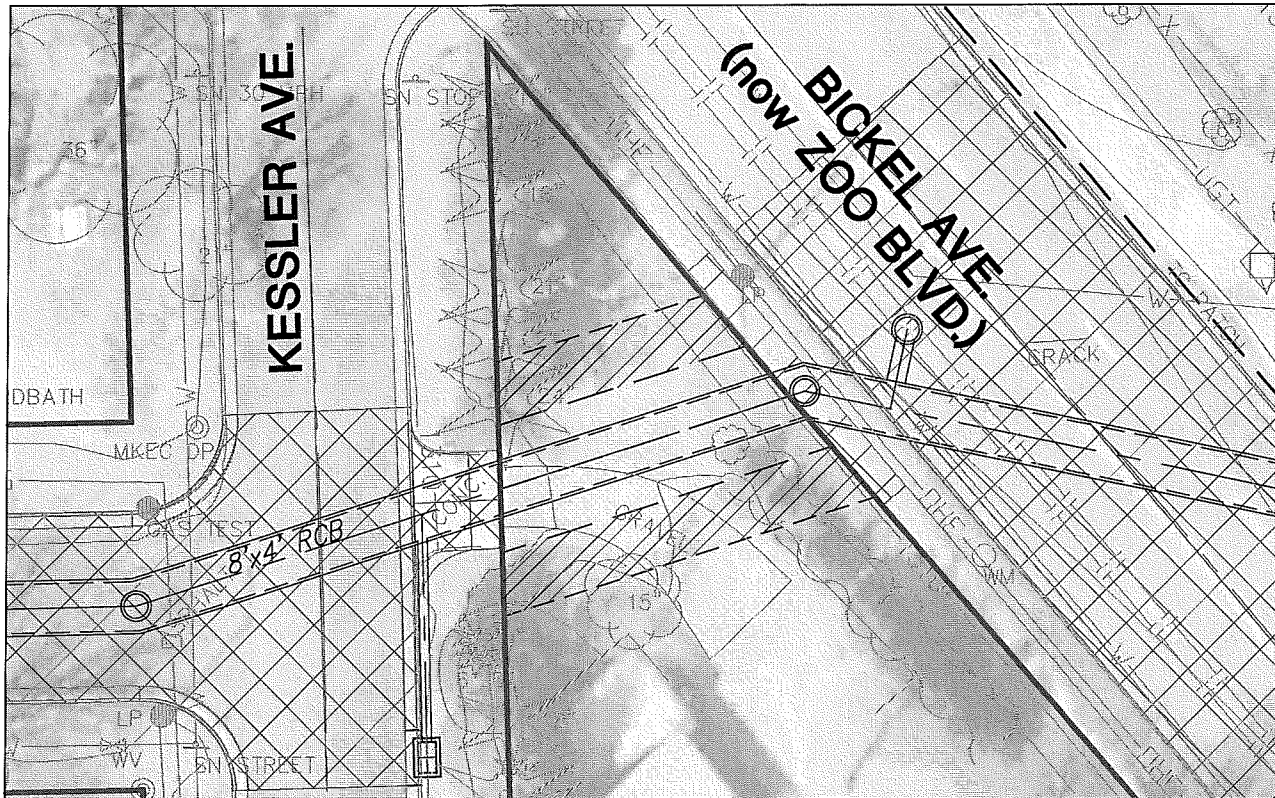
\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



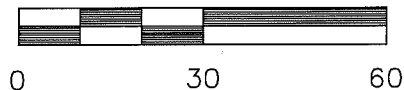
## LEGAL DESCRIPTION:

### Temporary Construction Easement:

The northerly 10.00 feet and the southerly 10.00 feet of a 40.00 feet wide tract of land lying in Lot 43, West Ridge Acres, Wichita, Sedgwick County, Kansas, said 40.00 feet wide tract being centered on the following described line:

Commencing at a point on the east line of Kessler Avenue as condemned in Condemnation Case A 67423 and the south line of Bickel Avenue (now Zoo Boulevard) as platted in West Ridge Acres, Wichita, Sedgwick County, Kansas; thence southeasterly along the northerly line of Lot 43, said Addition, and the south line of said Bickel Avenue, 76.09 feet to the Point of Beginning; thence southwesterly 49.42 feet to the Point of Termination, said point lying on the east line of said condemnation case and 72.69 feet south of the Point of Commencement.

SCALE: 1"=30'



## LEGEND:

 Temporary Construction Esmt. Area = 989 s.f.

 Right of Way / Property line



## Owner:

Anthony Stallbaumer  
3633 N. Zoo Blvd.  
Wichita, KS 67203

## Tax Key Property Identification:

D 09939

**MKEC**  
ENGINEERING  
CONSULTANTS, INC.

411 N. WEBB ROAD  
WICHITA, KS. 67206  
316-684-9600

**West Street to Arkansas River  
9th Street Storm Sewer Outfall**

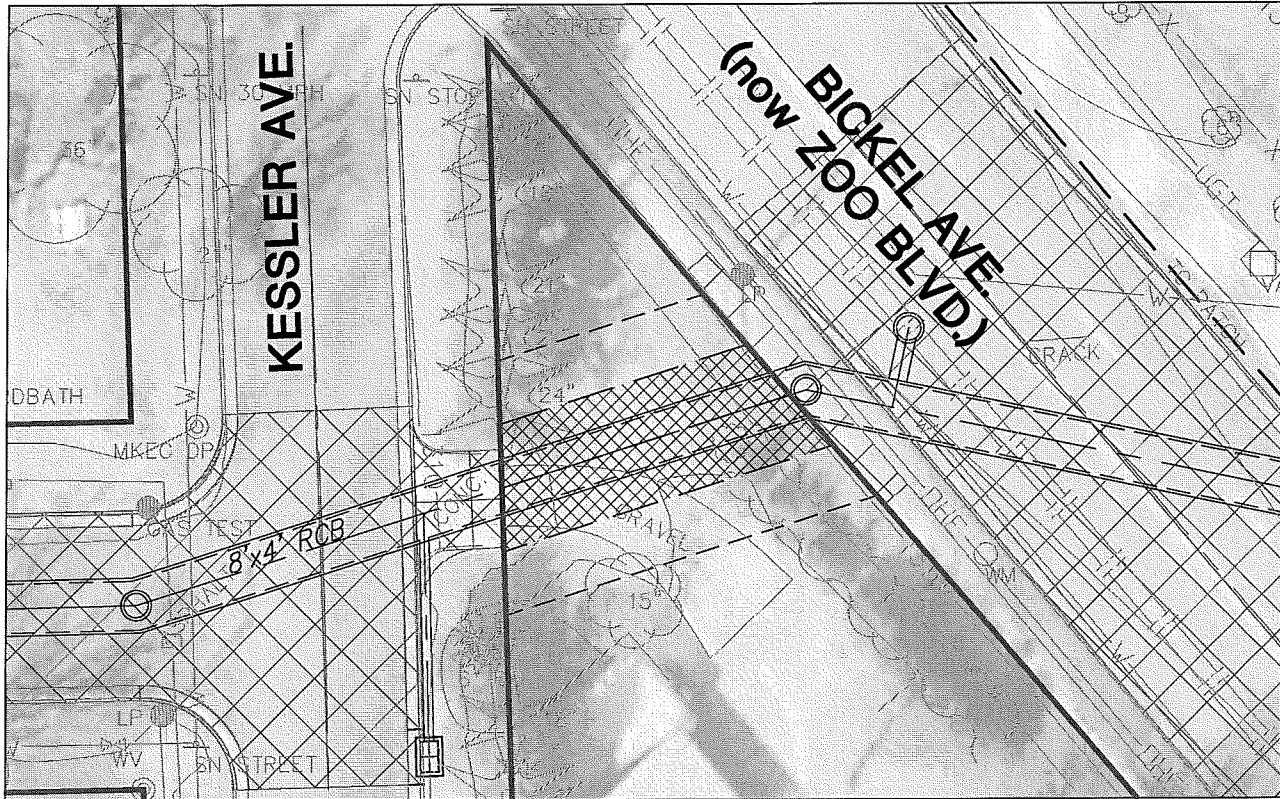
PROJECT NAME

**TRACT MAP**

**Temporary Construction Easement Exhibit**

SHEET TITLE

JRA DESIGN BY:	BDL DRAWN BY:	JRA / JCM CHECKED BY:
July 2008 DATE	06205 via JOB NO.	1 / 1 SHEET/OF



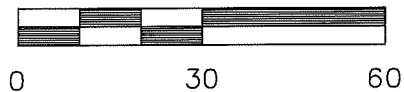
## LEGAL DESCRIPTION:

### Easement Area:



A 20.00 feet wide tract of land lying in Lot 43, West Ridge Acres, Wichita, Sedgwick County, Kansas, said 20.00 feet wide tract of land lying 10.00 feet on each side of the following described line:

Commencing at a point on the east line of Kessler Avenue as condemned in Condemnation Case A 67423 and the south line of Bickel Avenue (now Zoo Boulevard) as platted in West Ridge Acres, Wichita, Sedgwick County, Kansas; thence southeasterly along the northerly line of Lot 43, said Addition, and the south line of said Bickel Avenue, 76.09 feet to the Point of Beginning; thence southwesterly 49.42 feet to the Point of Termination, said point lying on the east line of said condemnation case and 72.69 feet south of the Point of Commencement.

SCALE: 1"=30'



## LEGEND:

-  Easement Area = 988 s.f.
-  Right of Way / Property line



### Owner:

Anthony Stallbaumer  
3633 N. Zoo Blvd.  
Wichita, KS 67203

### Tax Key Property Identification:

D 09939

**MKEC**  
ENGINEERING  
CONSULTANTS, INC.

411 N. WEBB ROAD  
WICHITA, KS. 67206  
316-684-9600

**West Street to Arkansas River  
9th Street Storm Sewer Outfall**  
PROJECT NAME

**TRACT MAP - Easement Exhibit**  
SHEET TITLE

JRA DESIGN BY:	BDL DRAWN BY:	JRA / JCM CHECKED BY:
July 2008 DATE	06205 v1b JOB NO.	1 / 1 SHEET/OF

**City of Wichita  
City Council Meeting  
January 6, 2009**

**TO:** Mayor and City Council Members

**SUBJECT:** General Obligation Bond and Note Sale

**INITIATED BY:** Finance Department

**AGENDA:** Consent

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**Recommendation:** Adopt the amended resolution.

**Background:** On December 16, 2008, the City Council adopted the resolution and approved the Official Notice of Sale authorizing the sale of two series of general obligation temporary notes in an amount not to exceed \$62,455,000 (Series 226 and 229) and three series of general obligation bonds (Series 796, 796A and 787) in an amount not to exceed \$49,485,000 for the purpose of providing interim and permanent financing for capital improvement projects of the City. The public sale of the bonds and notes is scheduled for 10:00 a.m. C.T. on January 13, 2009, at which time bids will be received and the City Council will award the sale of bonds and notes to the bidders whose proposed interest rates result in the lowest overall cost to the City.

**Analysis:** At the recommendation of the City's financial advisor, Springsted Incorporated, the non-taxable temporary notes have been resized and split into two different series to enhance marketability of these notes on the date of sale. As a result, the principal amount of the Series 226 temporary notes has been amended from \$51,600,000 to \$37,375,000 and a new temporary note Series 230 in the principal amount of \$14,220,000 has been added, for a total of \$51,595,000 in non-taxable temporary notes to be sold on January 13. Due to the tight financial markets, it is expected that offering two different series of temporary notes in lower principal amounts might result in increased participation from bidders, including local or regional bidder interest.

The principal amount of the Series 796A general obligation bonds has been increased by \$3.3 million to a revised principal amount of \$9,440,000 to include several special assessment projects that were inadvertently omitted from the project list.

**Financial Considerations:** The Series 226 and Series 230 Temporary Notes will mature on November 19, 2009 and will be retired using the proceeds of both permanent financing bonds, renewal notes and cash. The Series 226 and Series 230 Temporary Notes will be callable July 16, 2009 at par.

The Series 796A Special Assessment Bonds in the principal amount of \$9,440,000 will mature serially over 20 years with principal maturities structured to produce level annual payments of principal and interest. The Series 796A Bonds are payable from the collection of special assessments levied against benefitting properties, and if not so paid, from Citywide ad valorem taxes. The Series 796A Special Assessment Bonds will be callable beginning 2019 with a 1% call premium that declines annually by .50%.

**Goal Impact:** This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale. The sale of temporary notes allows short-term financing of improvements that shall be permanently financed through the issuance of bonds or pay-as-you-go financing. The special assessment bonds are being issued on a reimbursement basis to finance project costs previously incurred.

**Legal Considerations:** The Law Department has approved the amended Resolution authorizing the sale of the series of bonds and notes and directing the publication and distribution of the Notices of Bond and Note Sale (prepared by the City's Bond Counsel as required by law).

**Recommendation/Action:** It is recommended the City Council adopt the amending resolution and authorize publication of the revised Notice of Sale.

**Attachments:** Amended Sales Resolution  
Revised Official Notice of Sale

RESOLUTION NO. 09-015

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, AUTHORIZING AND PROVIDING FOR THE PUBLIC SALE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 226 AND 230; GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 229 (TAXABLE UNDER FEDERAL LAW); AND GENERAL OBLIGATION BONDS, SERIES 796, SERIES 796A AND SERIES 787; AND AMENDING RESOLUTION NO. 08-563.

WHEREAS, pursuant to Resolution No. 08-563 of the City of Wichita, Kansas (the "City"), adopted by the Governing Body of the City on December 16, 2008 ("Resolution No. 08-563"), the City has authorized the public sale of certain general obligation notes and bonds of the City; and

WHEREAS, the Governing Body finds and determines that it is necessary and advisable to amend Resolution No. 08-563 to increase the principal amount of the General Obligation Bonds, Series 796A from not to exceed \$6,140,000 to not to exceed \$9,440,000; to decrease the principal amount of General Obligation Renewal Temporary Notes, Series 226, from not to exceed \$51,600,000 to not to exceed \$37,375,000; and to add the authorization to sell General Obligation Renewal Temporary Notes, Series 230, in the principal amount not to exceed \$14,220,000;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

**Section 1.** Section 1 of Resolution No. 08-563 is hereby amended to read as follows:

Section 1. It is hereby found and determined to be necessary and it is hereby authorized, ordered and directed that the hereinafter described general obligation renewal and improvement temporary notes (the "Notes") and the hereinafter described general obligation bonds (the "Bonds"), of the City shall be sold at public sale on Tuesday, January 13, 2009. Bids for the purchase of the Notes and the Bonds shall be accepted by facsimile and through the *PARITY* Electronic Bid Submission System until 10:00 a.m., C.T., and will at such time be read aloud and tabulated by the City staff. The bids will be considered and the Notes and the Bonds will be awarded to the respective best bidders by the Governing Body at their earliest convenience following the deadline for receipt of the bids.

The Notes to be so sold shall be dated February 19, 2009, will be authorized by and issued pursuant to an ordinance to be adopted by the Governing Body immediately after the awarding of the Notes to the best bidder on the aforesaid sale date, and will be issued in the manner provided by K.S.A. 10-101 *et seq.*, as amended and supplemented, including specifically K.S.A. 10-123, as amended and supplemented. The Notes to be so sold shall be designated as General Obligation Renewal Temporary Notes, Series 226, which shall be issued in the principal amount not to exceed \$37,375,000; General Obligation Renewal and Improvement Temporary Notes, Series 229 (Taxable Under Federal Law), which shall be issued in the principal amount not to exceed \$10,475,000; and General Obligation Renewal Temporary Notes, Series 230, which shall be issued in the principal amount not to exceed \$14,220,000.

The Bonds to be so sold shall be dated February 1, 2009, will be authorized by and issued pursuant to ordinances to be adopted by the Governing Body immediately after the awarding of the Bonds to the best bidders on the aforesaid sale date, and will be issued in the manner provided by

K.S.A. 10-101 *et seq.*, as amended and supplemented. The Bonds to be so sold shall be designated as General Obligation Bonds, Series 796, which shall be issued in the principal amount not to exceed \$9,590,000; General Obligation Bonds, Series 796A, which shall be issued in the principal amount not to exceed \$9,440,000; and General Obligation Bonds, Series 787, which shall be issued in the principal amount not to exceed \$33,310,000.

Section 2. All other terms and provisions of Resolution No. 08-563 remain in full force and effect.

*[Remainder of page intentionally left blank.]*



ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 6, 2009.

(Seal)

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Carl Brewer, Mayor

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: 

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Gary E. Rebenstorf, Director of Law

**CITY OF WICHITA, KANSAS**

**OFFICIAL NOTICE OF SALE**

**\$9,590,000\* GENERAL OBLIGATION BONDS, SERIES 796**

**\$9,440,000\* GENERAL OBLIGATION BONDS, SERIES 796A**

**\$33,310,000\* GENERAL OBLIGATION BONDS, SERIES 787**

**\$37,375,000\* GENERAL OBLIGATION RENEWAL TEMPORARY NOTES,  
SERIES 226**

**\$10,475,000\* GENERAL OBLIGATION RENEWAL AND IMPROVEMENT  
TEMPORARY NOTES, SERIES 229  
(TAXABLE UNDER FEDERAL LAW)**

**\$14,220,000\* GENERAL OBLIGATION RENEWAL TEMPORARY NOTES,  
SERIES 230**

*(General Obligation Bonds and Notes Payable from Unlimited Ad Valorem Taxes)*

**Date, Time and Place of Receiving Bids**

Bids will be received by the Director of Finance on behalf of the Governing Body of the City of Wichita, Kansas (the “City”), as described herein, or, via *PARITY* electronic bid submission system (“*PARITY*”), until 10:00 a.m., Central Standard Time, on: **TUESDAY, JANUARY 13, 2009** (the “Sale Date”), for the purchase of \$9,590,000\* principal amount of General Obligation Bonds, Series 796 (the “Series 796 Bonds”), \$9,440,000\* principal amount of General Obligation Bonds, Series 796A (the “Series 796A Bonds”), \$33,310,000\* principal amount of General Obligation Bonds, Series 787 (the “Series 787 Bonds”), \$37,375,000\* principal amount of General Obligation Renewal Temporary Notes, Series 226 (the “Series 226 Notes”), \$10,475,000\* General Obligation Renewal and Improvement Temporary Notes, Series 229 (Taxable Under Federal Law) (the “Series 229 Notes”) and \$14,220,000\* principal amount of General Obligation Renewal Temporary Notes, Series 230 (the “Series 230 Notes”).

All bids shall be publicly read and tabulated on the date and at the time above indicated and all bids and the tabulations thereof shall thereafter be presented to the Governing Body of the City at their earliest convenience in the Council Chambers at City Hall. The Series 796 Bonds, the Series 796A Bonds and the Series 787 Bonds are herein collectively referred to as the “Bonds.” The Series 226 Notes, the Series 229 Notes and the Series 230 Notes are herein collectively referred to as the “Notes.” The Governing Body will thereupon award each series of the Bonds and each series of the Notes to the respective best bidders.

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\* Preliminary, subject to change

Each series of Bonds and Notes shall be sold separately, and bidders may bid on any series of Bonds or Notes. No oral or auction bid for any series of Bonds or Notes shall be considered, and no bid for less than the entire principal amount of the applicable series of Bonds or Notes shall be considered.

## **Description of Bonds**

**Series 796 Bonds.** The Series 796 Bonds shall be issued in the aggregate principal amount of \$9,590,000\*, shall bear a Dated Date of February 1, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 796 Bonds shall mature serially on September 1 in the years and principal amounts as follows:

### **Maturity Schedule - Series 796 Bonds**

<b><u>Maturing September 1</u></b>	<b><u>Principal Amount*</u></b>	<b><u>Maturing September 1</u></b>	<b><u>Principal Amount*</u></b>
2010	\$445,000	2018	\$655,000
2011	465,000	2019	690,000
2012	490,000	2020	725,000
2013	515,000	2021	760,000
2014	540,000	2022	800,000
2015	565,000	2023	840,000
2016	595,000	2024	880,000
2017	625,000		

The Series 796 Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on March 1 and September 1 of each year, commencing March 1, 2010.

**Series 796A Bonds.** The Series 796A Bonds shall be issued in the aggregate principal amount of \$9,440,000\*, shall bear a Dated Date of February 1, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 796A Bonds shall mature serially on September 1 in the years and principal amounts as follows:

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\* Subject to change.

### Maturity Schedule - Series 796A Bonds

<u>Maturing September 1</u>	<u>Principal Amount*</u>	<u>Maturing September 1</u>	<u>Principal Amount*</u>
2010	\$ 285,000	2020	\$ 465,000
2011	300,000	2021	490,000
2012	315,000	2022	515,000
2013	330,000	2023	540,000
2014	345,000	2024	565,000
2015	365,000	2025	595,000
2016	385,000	2026	625,000
2017	400,000	2027	655,000
2018	420,000	2028	680,000
2019	445,000	2029	720,000

The Series 796A Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on March 1 and September 1 of each year, commencing March 1, 2010.

**Series 787 Bonds.** The Series 787 Bonds shall be issued in the aggregate principal amount of \$33,310,000\*, shall bear a Dated Date of February 1, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 787 Bonds shall mature serially on June 1 in the years and principal amounts as follows:

### Maturity Schedule - Series 787 Bonds

<u>Maturing June 1</u>	<u>Principal Amount*</u>	<u>Maturing June 1</u>	<u>Principal Amount*</u>
2010	\$2,395,000	2018	\$3,535,000
2011	2,510,000	2019	3,710,000
2012	2,635,000	2020	580,000
2013	2,770,000	2021	610,000
2014	2,910,000	2022	640,000
2015	3,055,000	2023	675,000
2016	3,205,000	2024	710,000
2017	3,370,000		

The Series 787 Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on June 1 and December 1 of each year, commencing June 1, 2010.

**Principal Amounts Subject to Change.** The City reserves the right to decrease the total principal amount of any series of Bonds and the principal amount of any maturity in order to properly size a Bond issue including adjustments based on net bond proceeds received by the

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\* Subject to change.

City as a result of any premium bid. Adjustments, if required, will be made proportionately to each maturity as permitted by the authorized denominations of such series of Bonds. The successful bidder may not withdraw its bid or change the interest rates bid as a result of any changes made to the principal amount of a series of Bonds as described. If there is an adjustment in the final aggregate principal amount of a series of Bonds or the schedule of principal payments as described above, any premium bid on such series of Bonds will be proportionately adjusted. At the request of the City, each successful bidder agrees to resize the Bond issue, adjust the premium and provide a revised maturity schedule to the City promptly after receipt of notification of such a request by the City.

The City reserves the right to decrease the total principal amount of any series of Notes based on net note proceeds received by the City in order to properly size a Note issue including adjustment resulting from any premium bid. The successful bidder may not withdraw its bid or change the interest rates bid as a result of any changes made to the principal amount of a series of Notes as described. If there is an adjustment in the final aggregate principal amount of a series of Notes or the schedule of principal payments as described above, any premium bid on such series of Notes will be proportionately adjusted.

## **Redemption of Bonds**

**Series 796 Bonds.** The Series 796 Bonds maturing in the years 2010 through 2016, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 796 Bonds maturing September 1, 2017, and thereafter, may be called for redemption and payment prior to their respective maturities on and after September 1, 2016, in whole or in part at any time. Series 796 Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:

Redemption Dates ( <u>Inclusive</u> )	Redemption <u>Prices</u>
September 1, 2016, through August 31, 2017	101.00%
September 1, 2017, through August 31, 2018	100.50%
September 1, 2018, and thereafter	100.00%

**Series 796A Bonds.** The Series 796A Bonds maturing in the years 2010 through 2019, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 796A Bonds maturing September 1, 2020, and thereafter, may be called for redemption and payment prior to their respective maturities on and after September 1, 2019, in whole or in part at any time. Series 796A Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:

Redemption Dates ( <u>Inclusive</u> )	Redemption <u>Prices</u>
September 1, 2019, through August 31, 2020	101.00%
September 1, 2020, through August 31, 2021	100.50%
September 1, 2021, and thereafter	100.00%

**Series 787 Bonds.** The Series 787 Bonds maturing in the years 2010 through 2016, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 787 Bonds maturing June 1, 2017, and thereafter, may be called for redemption and payment prior to their respective maturities on and after June 1, 2016, in whole or in part at any time. Series 787 Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:

Redemption Dates ( <u>Inclusive</u> )	Redemption <u>Prices</u>
June 1, 2016, through July 31, 2017	101.00%
June 1, 2017, through July 31, 2018	100.50%
June 1, 2018, and thereafter	100.00%

**General Redemption Provisions.** If less than all of a series of outstanding Bonds are called for redemption on a specified date, the method of selection of the Bonds to be called shall be designated by the City in such equitable manner as it may determine. In the case of Bonds registered in denominations greater than \$5,000, the City shall treat each \$5,000 of face value as though it were a separate Bond in the denomination of \$5,000.

Written notice of any call for redemption and payment of the Bonds shall be given by the Paying Agent by United States first class mail, not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Bonds called for redemption and payment as shown by the Registration Books maintained by the Bond Registrar.

### **Paying Agent and Bond Registrar**

The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as Paying Agent and Bond Registrar for the Bonds (hereinafter called the "Paying Agent"). The fees of the Paying Agent for the registration, transfer, exchange, payment and redemption, if any, of the Bonds shall be paid by the City. The City shall also pay for the printing of a reasonable supply of blank registered bond certificates for such purpose. Any additional costs or fees that might be incurred in the secondary market, except the fees of the Paying Agent, shall be the responsibility of the Registered Owners of the Bonds.

## **Payment of Principal and Interest on Bonds; Ownership Registration**

One certificate representing the entire principal amount of each maturity of each series of the Bonds will be issued to The Depository Trust Company, New York, New York (hereafter called “DTC”), registered in the name of Cede & Co. (DTC’s nominee), and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Bonds in the permitted \$5,000 denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Bonds will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Bonds. DTC’s practice is to credit Direct Participants’ accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Bonds.

## **Description of Notes**

**Series 226 Notes.** The General Obligation Renewal Temporary Notes, Series 226, shall be issued in the principal amount of \$37,375,000, shall bear a Dated Date of February 19, 2009, and a Maturity Date of November 19, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 226 Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Series 226 Notes, and said interest shall be payable on the Maturity Date.

**Series 229 Notes.** The General Obligation Renewal and Improvement Temporary Notes, Series 229 (Taxable Under Federal Law), shall be issued in the principal amount of \$10,475,000, shall bear a Dated Date of February 19, 2009, and a Maturity Date of November 19, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 229 Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Series 229 Notes, and said interest shall be payable on the Maturity Date.

**Series 230 Notes.** The General Obligation Renewal Temporary Notes, Series 230, shall be issued in the principal amount of \$14,220,000, shall bear a Dated Date of February 19, 2009, and a Maturity Date of November 19, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 230 Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Series 230 Notes, and said interest shall be payable on the Maturity Date.

## **Redemption of Notes**

**Series 226, Series 229 and Series 230 Notes.** Each series of Notes may be called for redemption and payment prior to their respective maturities on and after July 16, 2009, in whole or in part at any time. Notes called for redemption and payment shall be redeemed at a price of 100% of the principal amount thereof, plus accrued interest to the date established for redemption and payment.

**General Redemption Provisions.** If less than all of a series of outstanding Notes are called for redemption on a specified date, the method of selection of the Notes to be called shall be designated by the City in such equitable manner as it may determine. In the case of Notes registered in denominations greater than \$5,000, the City shall treat each \$5,000 of face value as though it were a separate Note in the denomination of \$5,000.

Written notice of any call for redemption and payment of the Notes shall be given by the Paying Agent by United States first class mail, not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Notes called for redemption and payment as shown by the Registration Books maintained by the Bond Registrar.

## **Payment of Principal and Interest on Notes; Ownership Registration**

One certificate representing the entire principal amount of each series of the Notes will be issued to The Depository Trust Company, New York, New York (hereafter called "DTC"), registered in the name of Cede & Co. (DTC's partnership nominee) and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Notes in the hereinbefore stated permitted denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Notes will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Notes. DTC's practice is to credit Direct Participants' accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Notes.

## **Paying Agent and Note Registrar**

The City shall act as Note Registrar through the Office of the City Clerk and shall act as Paying Agent for the Notes through its Department of Finance.

## **Conditions of Bidding**

Individual proposals for the purchase of each series of Bonds and/or Notes shall be received bearing such rate or rates of interest as may be specified by the bidder, subject to the conditions of this paragraph. Only a single rate of interest for each series of the Notes may be specified by the bidder. The same rate of interest shall apply to all Bonds of the same series



having the same maturity date. Each interest rate specified shall be in an even multiple of 1/8th or 1/20th of 1%. The difference between the highest and the lowest interest rate specified for a series of Bonds shall not exceed 2%. The maximum stated rate of interest on any Bond, the Series 226 Notes or on the Series 230 Notes shall not exceed the daily yield for the ten-year treasury bonds published by *The Bond Buyer*, in New York, New York, on the Monday next preceding the date of the public sale, plus 3%. The maximum stated rate of interest on the Series 229 Notes shall not exceed the daily yield for the ten-year treasury bonds published by *The Bond Buyer*, in New York, New York, on the Monday next preceding the date of the public sale, plus 4%. No bid for less than par value, plus accrued interest thereon from the Dated Date to the date of delivery, shall be considered, and no supplemental interest payments shall be authorized. Each bid must state (i) the total interest cost to the City during the life of the applicable series of Bonds or Notes on the basis of the bid, (ii) the premium, if any, offered by the bidder, (iii) the net interest cost to the City on the basis of the bid, and (iv) the true interest cost (as hereinafter defined) on the basis of such bid. Each bid shall be certified by the bidder to be correct, and the Governing Body of the City shall be entitled to rely on such certificate of correctness.

### **Bid Forms.**

Except for bids submitted through *PARITY*, all bids must be made on forms which may be obtained from the Director of Finance. No additions or alterations in such forms shall be made, and any erasures may cause rejection of any bid.

### **Submission of Bids.**

Bids must be received by 10:00 a.m., Central Time on the Sale Date, and must be submitted in one of the following manners:

(a) ***Facsimile Bids.*** Bids may be submitted via facsimile to 316/858-7520, Attn: Director of Finance. The City accepts no responsibility for inaccurate bids submitted by facsimile transmission or for the inability to access the facsimile number before the indicated sale time. Facsimile facilities are limited and bidders using them should plan to allow time to compensate. **The deadline for facsimile bids is based on the time the transmission is printed through the facsimile facilities as opposed to the time the transmission is sent by the bidder.** Bidders are advised to allow time for the transmission to be received.

(b) ***Electronic Bids.*** Electronic bids may be submitted to *PARITY*. For purposes of the electronic bidding process, the time as maintained by *PARITY* shall constitute the official time with respect to all bids submitted to *PARITY*. *Each bidder shall be solely responsible for making necessary arrangements to access PARITY for purposes of submitting its electronic bid in a timely manner and in compliance with the requirements of this Notice.* Neither the City, its agents nor *PARITY* shall have any duty or obligation to undertake registration to bid for any prospective bidder or to provide or ensure electronic access to any qualified prospective bidder, and neither the City, its agents nor *PARITY* shall be responsible for a bidder's failure to register to bid or for any failure in the proper operation of, or have any liability for any delays or interruptions of or any damages caused by *PARITY*'s service. The City is using the services of *PARITY*

solely as a communication mechanism to conduct the electronic bidding for the Bonds, and *PARITY* is not an agent of the City.

To the extent any instructions or directions set forth in *PARITY* conflict with this Notice, the terms of this Notice shall control. For further information about *PARITY*, including any fee charged, potential bidders may contact *PARITY* at 212/849-5021.

The City assumes no liability for the inability of the bidder to reach the City or *PARITY* prior to the time of sale specified above. All bidders are advised that each bid shall be deemed to constitute a nonrescindable offer for a contract between the bidder and the City to purchase the Bonds regardless of the manner by which the bid is submitted.

### **Good Faith Deposit**

Each bid for the Bonds shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the series of Bonds for which the bid is submitted (\$191,800 for the Series 796 Bonds, \$188,800 for the Series 796A Bonds and \$666,200 for the Series 787 Bonds), and each bid for the Notes shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the series of Notes for which the bid is submitted (\$747,500 for the Series 226 Notes, \$209,500 for the Series 229 Notes and \$284,400 for the Series 230 Notes). The good faith deposit must be in the form of (1) a certified or cashier's check drawn on a bank located in the United States of America, payable to the order of the City, (2) a Financial Surety Bond (as described below) payable to the order of the City, or (3) a wire of Federal Reserve funds (as described below), immediately available for use by the City. If a bid is accepted, such good faith deposit shall be deposited by the City until the bidder shall have complied with all of the terms and conditions of this Notice and of its bid. In the event a bidder whose bid is accepted shall default in the performance of any of the terms and conditions of this Notice or of its bid, said bidder's good faith deposit shall be retained by the City for liquidated damages. If a bid is accepted, but the City shall fail to deliver the applicable Bonds or Notes to the bidder in accordance with the terms and conditions hereof, said good faith deposit amount shall be returned to the bidder. No interest shall be paid upon the successful bidder's good faith deposit. Checks representing the good faith deposit accompanying the bids of the unsuccessful bidders shall be promptly returned.

**Certified or Cashier's Check.** If a certified or cashier's check is used for the good faith deposit, it must be received by the City prior to 10:00 a.m. Central Standard Time on the Sale Date by delivery to Ms. Catherine Gilley, Debt Coordinator, Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679.

**Financial Surety Bond.** If a Financial Surety Bond is used for the good faith deposit, it must be from Financial Security Assurance of Maryland Inc., New York, New York, an insurance company licensed to issue such surety bond in the State of Kansas and approved by the City. Such surety bond must be submitted to the Director of Finance prior to the time that bids for the purchase of the Bonds and Notes will be received. The Financial Surety Bond must identify each bidder whose good faith deposit is guaranteed by such Financial Surety Bond. If a series of Bonds or Notes is awarded to a bidder using a Financial Surety Bond, then that bidder is required to submit its good faith deposit to the City in the form of a certified or cashier's check

or wire transfer as instructed by the Director of Finance not later than 2:00 p.m., C.S.T., on the next business day following the award of the applicable series of Bonds or Notes. If such check or wire transfer is not received by that time, the Financial Surety Bond will be drawn by the City to satisfy the good faith deposit requirement.

**Wire Transfer.** If a wire transfer of the good faith deposit is used, the wire transfer shall reference the applicable series of Bonds or Notes and shall be sent to the City as follows:

Intrust Bank NA  
ABA #101100029  
For credit to Account #41843649

Ref: City of Wichita, Kansas Good Faith Deposit, Series \_\_\_\_\_ [fill in appropriate series designation]

All good faith deposits sent via wire transfer must be received by the City prior to 10:00 a.m. Central Standard Time on the Sale Date. Contemporaneously with such wire transfer, each bidder shall send an e-mail to [cgilley@wichita.gov](mailto:cgilley@wichita.gov) and [shenning@wichita.gov](mailto:shenning@wichita.gov) including the following information: (i) indication that a wire transfer has been made; (ii) the amount of the wire transfer; (iii) the wire transfer federal reference number; (iv) the issue to which it applies; and (v) the return wire instructions if such bidder is not awarded the applicable series of Bonds or Notes to which the wire transfer applies.

### **Awarding of Bonds and Notes**

Each series of Bonds and Notes will be sold separately and each will be awarded to the responsible bidder offering to pay not less than the par amount of applicable series of Bonds or Notes and accrued interest thereon and specifying a rate or rates of interest that result in the lowest effective interest rate to the City. The effective interest rate to the City shall be the interest rate per annum determined on a per annum true interest cost ("TIC") basis by discounting the scheduled semiannual debt service payments of the City on the applicable series of Bonds or Notes (based on such rate or rates of interest so bid), to the Dated Date of such Bonds or Notes (based on a 360-day year), compounded semiannually and to the bid price, excluding accrued interest to the date of delivery. The City reserves the right to verify each bidder's calculation of TIC, and the award shall be made to the bidder whose proposal results in the lowest TIC calculated in accordance with the provisions of this Notice. If two or more identical bids for the lowest TIC are received, the Governing Body shall determine which bid, if any, shall be accepted, and such determination shall be final. The Governing Body reserves the right to reject any and/or all bids, and to waive any irregularities in any bid submitted.

### **Ratings**

The City's outstanding general obligation bonds issued since 1975 have been rated by Moody's Investors Service, Inc. ("Moody's") and by Standard & Poor's, a division of the McGraw-Hill Companies ("S&P"). The most recent ratings given to the City's general obligation bonds (dated August 1, 2008) by such rating agencies were "Aa2" and "AA+" respectively. The City's most recently issued general obligation notes (dated August 19, 2008)

were rated “*MIG 1*” by Moody’s and “SP-1+” by S&P. The City has applied to both Moody’s and S&P for ratings on the Bonds and Notes described herein.

### **Bond Insurance**

The City has not applied for any policy of municipal bond insurance with respect to the Bonds or Notes and will not pay the premium in connection with any policy of municipal bond insurance desired by the successful bidder. In the event a bidder desires to purchase and pay all costs associated with the issuance of a policy of municipal bond insurance in connection with any series of the Bonds or Notes, such intent must be specified on the bid and the bid must be accompanied by a commitment from the selected insurer specifying all terms and conditions to which the City will be required to agree in connection with the issuance of such insurance policy. Such commitment shall be delivered to the office of the Department of Finance, located on the Twelfth Floor of City Hall, 455 North Main, Wichita, Kansas 67202-1679. The Governing Body specifically reserves the right to reject any bid specifying municipal bond insurance, even though such bid may result in the lowest true interest cost to the City.

### **CUSIP Identification Numbers**

The CUSIP Service Bureau will be requested to assign CUSIP identification numbers to the Bonds and Notes, and such numbers shall be printed on the Bonds and Notes; however, neither the failure to assign any such number to or print any such number on any Bond or Note, nor any error with respect thereto, shall constitute cause for the failure or refusal by the successful bidder to accept delivery of and to make payment for the Bonds or Notes in accordance with the terms of this Notice and of its bid. All expenses in relation to the printing of the CUSIP numbers and the expenses of the CUSIP Service Bureau for the assignment thereof shall be the responsibility of and shall be paid for by the City.

### **Delivery of and Payment for Bonds**

A single Bond per maturity, duly printed or typewritten, executed and registered in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder of each series of Bonds on or about February 19, 2009, by deposit of such Bonds with DTC. Payment for each series of Bonds shall be received by 12:00 noon, C.S.T., on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the applicable series of Bonds, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such series of Bonds affecting their validity and also regarding the completeness and accuracy of the Official Statement.

### **Delivery of and Payment for Notes**

A single Note, duly printed or typewritten, executed, registered and countersigned in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense

of the City to the successful bidder(s) of each series of Notes on or about February 19, 2009, by deposit of such Notes with DTC. Payment for each series of Notes shall be received by 12:00 noon, C.S.T., on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the applicable series of Notes, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such series of Notes affecting their validity and also regarding the completeness and accuracy of the Official Statement.

### **Official Statement**

The Governing Body of the City has authorized and directed the preparation of a Preliminary Official Statement in connection with the issuance of the Bonds and Notes, copies of which may be obtained from the City's Department of Finance. The Preliminary Official Statement is in a form "deemed final" by the Governing Body for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final Official Statement. Authorization is hereby given to redistribute this Official Notice of Sale and the Preliminary Official Statement, but this entire Official Notice of Sale and the entire Preliminary Official Statement, and not portions thereof, must be redistributed.

By awarding the Bonds or Notes to any bidder or bidding syndicate submitting a proposal therefor, the Governing Body agrees that, no more than seven business days after the date of such award, it shall provide without cost to the senior managing underwriter of the syndicate to which such Bonds or Notes are awarded, a reasonable number of copies of the final Official Statement. The City designates the senior managing underwriter of any syndicate to which such Bonds or Notes are awarded as agent for purposes of distributing copies of the final Official Statement to each participating underwriter. Any bidder delivering a proposal with respect to the Bonds or Notes agrees thereby that if such proposal is accepted (i) it shall accept such designation, and (ii) it shall enter into a contractual relationship with all participating underwriters of the applicable series of Bonds or Notes for purposes of assuring the receipt by each such participating underwriter of the final Official Statement. Copies of the final Official Statement in excess of a reasonable number may be ordered by the successful bidder at its expense.

### **Continuing Disclosure**

The City has adopted Ordinances establishing master undertakings to provide ongoing disclosure concerning the City in connection with its general obligation bonds and in connection with its general obligation notes for the benefit of owners of such bonds and notes, including the Bonds and Notes described herein, as required under Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12. The Ordinances are included as an Appendix to the Official Statement.

## **Authority, Purpose and Security**

The Bonds and Notes shall be issued under the authority of and pursuant to the provisions of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, including specifically, with reference to the Notes, K.S.A. 10-123, as amended and supplemented. The Bonds and Notes shall be authorized by Ordinances to be adopted by the Governing Body. The Bonds and Notes and the interest thereon shall constitute general obligations of the City, and the full faith, credit and resources of the City will be pledged by the aforesaid Ordinances to the payment thereof. Reference is made to the City's Official Statement for a more extensive discussion of security for the Bonds and Notes.

**The Series 796 Bonds.** The proceeds of the Series 796 Bonds shall be used, together with special assessments which have been collected in cash and other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City, the costs of which have been charged as special assessments to real properties benefited by the improvements. The Series 796 Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against benefited real properties in the City, over a 15-year period, and any part of said principal and interest not so paid, shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

**The Series 796A Bonds.** The proceeds of the Series 796A Bonds shall be used, together with special assessments which have been collected in cash and other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City, the costs of which have been charged as special assessments to real properties benefited by the improvements. The Series 796A Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against benefited real properties in the City, over a 20-year period, and any part of said principal and interest not so paid, shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

**The Series 787 Bonds.** The proceeds of the Series 787 Bonds shall be used, together with other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City. The Series 787 Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon, over a 15-year period, from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

**The Series 226 Notes.** The proceeds of the Series 226 Notes shall be used for the purpose of providing funds to renew a portion of the principal amount of the City's General Obligation Renewal and Improvement Temporary Notes, Series 224 (the "Series 224 Notes"), previously issued by the City for the purpose of providing temporary financing for multiple

capital improvements in the City and for the purpose of providing temporary financing for acquiring, constructing and installing certain newly undertaken multiple capital projects within the City. The principal of and the interest on the Series 226 Notes shall be paid from moneys collected from special assessments to be levied against real properties in the City benefited by certain of the capital improvements upon the completion thereof, from the proceeds of general obligation bonds which will be subsequently issued by the City for such purpose, and from current revenues of the City which are available for such purpose, or all or part of the Series 226 Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose pending completion of some or all of the capital improvements.

**The Series 229 Notes.** The proceeds of the Series 229 Notes shall be used for the purpose of providing funds to renew the principal amount of the City's General Obligation Renewal and Improvement Notes, Series 225 (the "Series 225 Notes"), previously issued by the City for the purpose of providing temporary financing for multiple capital improvements in the City and for the purpose of providing temporary financing for acquiring, constructing and installing certain newly undertaken capital improvements in the City. The principal of and the interest on the Series 229 Notes shall be paid from the proceeds of general obligation bonds which will be subsequently issued by the City for such purpose and from current revenues of the City which are available for such purpose, or all or part of the Series 229 Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose pending completion of some or all of the capital improvements.

**The Series 230 Notes.** The proceeds of the Series 230 Notes shall be used for the purpose of providing funds to renew a portion of the principal amount of the City's General Obligation Renewal and Improvement Temporary Notes, Series 224 (the "Series 224 Notes"), previously issued by the City for the purpose of providing temporary financing for multiple capital improvements in the City. The principal of and the interest on the Series 230 Notes shall be paid from the proceeds of general obligation bonds which will be subsequently issued by the City for such purpose or from current revenues of the City which are available for such purpose. All or part of the Series 230 Notes may also be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose pending completion of some or all of the capital improvements.

## **Legal Opinion**

All matters relating to the authorization and issuance of the Bonds and the Notes are subject to the approving opinion of Kutak Rock LLP, Kansas City, Missouri, Bond Counsel. Bond Counsel's opinion shall be furnished without expense to the successful bidder(s) concurrently with delivery of the Bonds and the Notes. All fees and expenses of Bond Counsel shall be paid by the City.

## **Tax Exemption**

**Exemption from State Tax.** The interest on the Bonds and the Notes is excludable from the computation of Kansas adjusted gross income and the Bonds and the Notes are exempt from the tax imposed by Kansas counties, cities or townships upon the gross earnings derived from money, notes and other evidence of debt.

**Exemption from Federal Tax – Bonds, Series 226 and Series 230 Notes.** In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the Bonds, the Series 226 Notes and the Series 230 Notes is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the Bonds, the Series 226 Notes and the Series 230 Notes. Failure to comply with such requirements could cause interest on the Bonds, the Series 226 Notes or the Series 230 Notes to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds, the Series 226 Notes or the Series 230 Notes, as applicable. The City has covenanted to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Bonds, the Series 226 Notes or the Series 230 Notes.

Notwithstanding Bond Counsel’s opinion that interest on the Bonds, the Series 226 Notes and the Series 230 Notes is not a specific preference item for purposes of the federal alternative minimum tax, such interest will be included in adjusted current earnings of certain corporations, and such corporations are required to include in the calculation of alternative minimum taxable income 75% of the excess of such corporations’ adjusted current earnings over their alternative minimum taxable income (determined without regard to such adjustment and prior to reduction for certain net operating losses).

The accrual or receipt of interest on the Bonds, the Series 226 Notes and the Series 230 Notes may otherwise affect the federal income tax liability of the owners of the Bonds, the Series 226 Notes and the Series 230 Notes. The extent of these other tax consequences will depend upon such owner’s particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the Bonds, the Series 226 Notes and the Series 230 Notes, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers otherwise entitled to claim the earned income credit, or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the Bonds, the Series 226 Notes or the Series 230 Notes.

**Not Exempt from Federal Tax - Series 229 Notes.** In the opinion of Kutak Rock, LLP, Bond Counsel, interest on the Series 229 Notes is subject to federal income taxation, and Bond Counsel expresses no opinion regarding other federal tax consequences arising with respect to the Series 229 Notes.

**Not Bank-Qualified Obligations.** The City has not designated the Bonds or the Notes as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.



## **Original Purchaser's Certificate**

Bond Counsel will prepare and furnish for execution to the successful bidder for each series of Bonds and Notes, an Original Purchaser's Certificate which states that such Original Purchaser reasonably expects at least 10% of each maturity for such Bonds or Notes to be sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at initial reoffering prices to the public as shall be provided by the Original Purchaser thereof.

## **Assessed Valuation; Bonded Indebtedness**

The City's equalized assessed tangible valuation for computation of bonded debt limitations is \$3,384,597,837. The total outstanding general obligation bonded indebtedness of the City as of February 1, 2009, including the Bonds and Notes is \$651,261,282. The City's General Obligation Renewal and Improvement Temporary Notes, Series 224, outstanding in the principal amount of \$94,355,000 will be retired on February 19, 2009, from a portion of the proceeds of the Bonds, the Series 226 Notes, the Series 230 Notes and other available funds of the City. The City's General Obligation Renewal and Improvement Temporary Notes, Series 225, outstanding in the principal amount of \$8,015,000 will be retired from the proceeds of the Series 229 Notes.

## **Additional Information**

Additional information regarding the Bonds and Notes may be obtained from the Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679 (Ms. Catherine Gilley, Debt Coordinator, Telephone 316/268-4143, E-mail: [cgilley@wichita.gov](mailto:cgilley@wichita.gov)). To obtain a Preliminary Official Statement visit [www.onlinemuni.com](http://www.onlinemuni.com).

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**BY ORDER OF THE GOVERNING BODY OF THE CITY OF WICHITA,  
KANSAS, ON DECEMBER 16, 2008 AS AMENDED ON JANUARY 6, 2009.**

By: /s/ Carl Brewer, Mayor  
Carl Brewer, Mayor

(Seal)

ATTEST:

By: /s/ Karen Sublett, City Clerk  
Karen Sublett, City Clerk

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Relocation of Westar Energy Electric Lines for the East Kellogg Freeway Project (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the payment.

**Background:** Westar Energy has overhead lines along the East Kellogg Freeway project from Gouverneur to the Kansas Turnpike which provide street lighting and electrical service to adjacent properties as well as larger transmission lines. On July 1, 2003, the City Council selected an underground alignment for Westar Energy electric lines in this area. Both distribution and transmission lines are being relocated. The City agreed to compensate Westar for the difference between underground and overhead utility relocation.

**Analysis:** Funding in the amount of \$270,520 is due as a result of these lines being relocated underground. Overall cost savings to the project resulted when right of way requirements were narrowed, thus preserving some business locations. However, the narrower Right of way did result in additional underground relocation costs. Costs include providing aesthetic light poles in lieu of wood poles

**Financial Considerations:** Funds are available in the project budget. The funding source is the Local Sales Tax.

**Legal Considerations:** None.

**Recommendation/Action:** It is recommended that the City Council approve the payment to Westar Energy in the amount of \$270,520.

**Attachments:** None.

**City of Wichita**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and Members of the City Council  
**SUBJECT:** ICMA Public Library Innovations Grants  
**INITIATED BY:** Wichita Public Library  
**AGENDA:** Consent

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**Recommendations:** Approve the grant application and award, if received

**Background:** In 2006, the International City/County Management Association (ICMA) began a partnership with the Bill & Melinda Gates Foundation known as the Local Government and Public Libraries Initiative. As part of this endeavor, an ICMA advisory committee identified areas where public libraries could play larger roles in delivering services including access to technology, public safety and disaster preparedness, sustainability, health, immigration, civic engagement and economic development. In a next phase of this partnership, the Gates Foundation is helping ICMA to fund a Public Library Innovation Grants Program relating to ICMA's overall goal of promoting sustainable communities. Goals of the grant program are to enable public librarians to join their local government managers in developing and implementing solutions to specific community challenges and to build the capacity of the participating local governments and library leaders to collaboratively launch and support change and innovation in their public library systems. The deadline for submission of grant applications is January 9, 2009. Awards will be announced in February. Recipients must complete and report on approved projects by August 2010.

**Analysis:** The Wichita Public Library, with assistance from the Wichita-Sedgwick County Metropolitan Area Planning Department, the City Manager's Office and the Wichita Metro Chamber of Commerce, proposes a project to engage the community in the overall downtown revitalization effort through strategy development helping to define the role of the Central Library as an anchor within downtown and for linking the proposed new Central Library with other downtown revitalization efforts. If received, the grant will be used to fund development of a planning document for revitalization of the portion of downtown that surrounds the proposed new Central Library. The planning process will ensure engagement of citizens of diverse backgrounds and residents from all geographic quadrants of the City. The Wichita Public Library's facilities, technology and staff will assist with this community engagement. Libraries are a safe "third space" - the place between work and home available to everyone - and as such they have unique potential as anchor facilities for downtown revitalization.

**Goal Impact:** Ensuring appropriate planning for the area immediately surrounding the proposed new Central Library supports City goals relating to maintaining an efficient infrastructure, providing cultural, recreational and learning opportunities and enhancing the core area and neighborhoods.

**Financial Considerations:** The Library and Planning Departments in conjunction with the City Manager's Office proposes support for an application with the maximum possible award of \$60,000. There is no matching requirement for receipt of a grant award.

**Legal Considerations:** The Law Department will review and approve documents as to form.

**Recommendation/Actions:** It is recommended the City Council approve the grant application, the grant award and authorize the necessary signatures.

**Attachments:** ICMA Public Library Innovations Grant Application



# Public Library Innovation Grants

## 2008 Application

Review the 2008 Application Guidelines & Resources before completing your application. If you do not have the Guidelines, they can be found at [www.icma.org/publiclibrarygrants](http://www.icma.org/publiclibrarygrants). You must submit this form. You may add space as necessary to complete the questions. Your application package should include this application form, the budget spreadsheet and attachments (if applicable).

Jurisdiction (City/County/Other)

Library Organization

Project Contact Person

Mailing Address

Zip Code

Phone

Email (Primary Contact)

Chief Administrative Officer/Manager

Email (Administrator)

Project Name

Tax ID (If applicable)

**Describe your proposed project in 3–5 sentences.**

**Total amount** of Grant funds requested for this project (up to \$60,000): \_\_\_\_\_

### ORGANIZATIONAL INFORMATION

1. **Jurisdiction Population:** \_\_\_\_\_
2. **Population served by public library system:** \_\_\_\_\_
3. **Library Budget:** What is your library's annual budget? Please check one.  
☐ Under \$100K    ☐ \$100K–\$300K    ☐ Over \$300K
4. **Library Funding:** How is your community's library funded? \_\_\_\_\_

### COMMUNITY OBJECTIVE

5. **Community Description:** Give a brief description of your community and your local library.

6. **Community Need:** Include information about a specific community need that will be addressed by this project.

## LEADERSHIP AND COMMITMENT

7. **Leadership:** Describe the project team and clearly state what new partnerships or alignments will be formed between the library and the local government/local government departments.

8. **Commitment:** Below please indicate which two members of the team will participate in all three ICMA Public Library Innovation Grantee Meetings. Attendance is required for all three meetings. ICMA will reimburse travel expenses for two members of each team to participate. By signing below, the following commit to participating in the project and attending all grantee meetings. (Please see the Grant timeline in the Application Guidelines for schedule of grantee meetings.)

_____ Name	_____ Title	_____ Organization/Department
_____ Signature		
_____ Name	_____ Title	_____ Organization/Department
_____ Signature		

## PROJECT INFORMATION

9. **Type of Project:** Please check one. This project is a(n): ☐ New project ☐ Expansion of an existing project
10. **Project Narrative:** Please address the following in your project narrative. (Narrative can be completed in a separate document and attached)
- A. Project Goals: List 3 to 5 goals for your project.
  - B. Project Description: Give a full description of your project.
  - C. Technology: Describe technology that will be used within the project and clearly explain how this will help support project goals.
  - D. Promotion and Recruitment: What steps will you take to ensure participation and promote your project?
14. **Project Timeline/Milestones:**
- A. List in chronological order specific action steps you will take to complete this project. You may add rows on a separate sheet if necessary.
  - B. Next to each step, identify who will be responsible for carrying out the step or activity.
  - C. Estimate the date the step will be completed (month and year). Dates should start no earlier than March 2008 and end no later than August 2010.

_____ a. Action #1	_____ b. Responsible Person/Group	_____ c. Date Done
_____ a. Action #2	_____ b. Responsible Person/Group	_____ c. Date Done
_____ a. Action #3	_____ b. Responsible Person/Group	_____ c. Date Done

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a. Action #4

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b. Responsible Person/Group

---

c. Date Done

---

a. Action #5

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b. Responsible Person/Group

---

c. Date Done

---

a. Action #6

---

b. Responsible Person/Group

---

c. Date Done

15. **Project Budget:** Review Appendices B, C, and D in the Application Guidelines & Resources.

A. **Budget Spreadsheet**

Please complete a Project Budget Spreadsheet and include with your application. The budget template is available at [www.icma.org/publiclibrarygrants](http://www.icma.org/publiclibrarygrants). Be sure to note the rate and number of hours used in your personnel calculations.

B. **Budget Narrative**

It is very important that your budget be clear to the review committee. Briefly describe each budget item here.

## EVALUATION

16. **Evaluation:** What is your evaluation plan? How will you evaluate the impact that your project has on the community? What information will you gather to track this? Describe measures of success for both outputs and outcomes. (Output measures are quantitative and include statistics such as number of youth attending program, books circulated, number of programs held, etc. Outcomes are related to the question of whether or not your effort made a difference and if so, what that difference was. Outcome measures might include changes in attitude or behavior, documentation of knowledge acquired, etc.) Note: Evaluation plans will be finalized with ICMA after grants are awarded.

## SUSTAINABILITY

17. **Community Benefit:** Describe what will be left in place as a result of your project? (technology, programs, organizational capacity, community capacity)

18. **Leveraging Grant Money:** Explain how you will leverage grant to make the project sustainable after the grant period. (In-kind donations, private investment, community commitments, or other funding sources)

19. **Attachments:** Please include a list of your attachments here.

## APPLICATION SUBMISSION

Application package should include the application form, project narrative, the budget spreadsheet, and attachments, as applicable.

Submit your application via email or in hard copy format. We request that you please email as much of your application as possible.

**Deliver to:**

Molly Donelan, ICMA Public Library Innovation Grants Manager

ICMA

777 North Capitol St, NE

Suite 500

Washington, DC 20002

(202) 962-3645

publiclibrarygrants@icma.org

**The application package must be received by 5:00 p.m. EST on Friday, January 9, 2009.**

All applications must be easy to photocopy. Do not staple or bind hard copy applications.



## 10. Project Narrative

### A. Project Goals

1. Define the role of the Central Library as an anchor within downtown
2. Link the Central Library's anchor role to the overall vision of downtown revitalization
3. Develop strategies for establishing these linkages through public improvements between the library site and the other downtown anchors
4. Engage the community in the overall downtown revitalization effort through strategy development for linking the Central Library with other downtown revitalization efforts

### B. Project Description

The City of Wichita and the Wichita Public Library will partner through the IMCA Public Library Innovation Grant to hire a multi-disciplinary consulting team to prepare a plan for public improvement strategies to link the new Central Library with other downtown anchors. The community is undertaking a major downtown revitalization effort that includes the award-winning Old Town entertainment district, the 15,000 seat, world-class Intrust Bank Arena, the Water Walk mixed-use redevelopment district, and the Museums on the River district.

A new Central Library is proposed to be constructed in a different location. The current location is adjacent to the Century II Performing Arts and Convention Center, which needs the room to expand. More importantly, the current Central Library is significantly too small for the community and is in dire need of updating and modernization. To that end, the City of Wichita has committed \$30 million to construct a new Central Library on recently acquired property located between its current location and the Museums on the River District on the west side of the Arkansas River across from the remainder of downtown.

In order that the Central Library remain a major community destination and an anchor in the downtown revitalization efforts, strategies need to be developed for the necessary public improvements to link the Central Library to the other anchors in downtown via multiple modes of transportation. Such strategies could include streetscaping improvements, transit improvements, parking improvements, and incorporation of the Central Library within a public-private mixed use development. However, the actual strategies to be used will be developed by a multi-disciplinary consulting team consisting of experts in the fields of public relations, planning, and traffic engineering through an extensive community engagement process. While a consulting team will be utilized, significant staff time will be invested by staff from the Wichita City Manager's Office,

## City of Wichita Application Narrative

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Wichita Public Library, Wichita Public Works Department and the Wichita-Sedgwick County Metropolitan Area Planning Department.

### C. Technology

The project will use the latest technology in order to maximize the investment of ICMA Public Library Innovation Grant funds through significant efficiency gains and productivity improvements. While the consultant selection process will determine the actual technological methods to be employed, significant weight in the selection process will be given to proposals that use the latest software techniques for the display of urban design concepts and electronic polling of public opinion and visual preferences at public meetings.

Additionally, the Internet will be used to solicit public input during the plan development process. The Wichita Public Library public access computers as well as public access computers at City of Wichita Neighborhood City Halls will be promoted extensively so that a diverse representation of the community can participate in the community engagement process.

The video conferencing capabilities of the Wichita Public Library will be used for communicating with the consulting team in order to save on travel expenses. The City of Wichita's City7 public access television channel will be used to promote the project and further foster community engagement.

### D. Promotion and Recruitment

The City of Wichita and the Wichita Public Library will partner with other community organizations to ensure broad-based community participation in the project. These organizations include Visioneering Wichita, Wichita Metro Chamber of Commerce, Greater Wichita Convention and Visitors Bureau, Wichita Downtown Development Corporation, Young Professionals of Wichita Association, Mayor's Downtown Vision Steering Committee, Mayor's Downtown Vision Stakeholders Committee, Wichita State University, Sedgwick County, and private businesses.

Additionally, Spanish-language materials and interpreters will be used in the community engagement process to ensure a diverse representation of community input.

City of Wichita  
City Council Meeting  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Public Works-Engineering Project Management System (All Districts)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve remaining budget.

**Background:** Public Works-Engineering administers the design and construction of over \$100,000,000 in infrastructure improvements annually. On December 11, 2007, the City Council approved a comprehensive engineering project management system to improve project tracking, customer service, reporting, and fiscal management. Skire, a computer software development company, is providing the necessary services for the system.

**Analysis:** Skire is providing a system capable of tracking the life cycle of projects including the CIP planning stage, City Council initiation, design, construction and closeout. The system will be configured so that it can be adapted to future improvements of current management practices and the work processes of other City departments. The first phase in which Engineering and IT worked with Skire to incorporate our needs into their system, is now completed.

**Financial Considerations:** The approved project budget is \$750,000. Payments to date are \$550,000. The funding source is General Obligation Bonds. The remaining budget of \$200,000 will be initiated now to complete the final phase.

**Goal Impact:** This project will support the Efficient Infrastructure Goal by providing improved management of all Public Works-Engineering projects.

**Legal Considerations:** None.

**Recommendations/Actions:** It is recommended that the City Council approve the remaining budget.

**Attachment:** None.

**CITY OF WICHITA**  
**City Council Meeting**  
January 6, 2009

**TO:** Mayor and City Council Members

**SUBJECT:** Title Insurance, Abstract and Other Related Services – Selection of Vendor

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the selection of First American Title for title insurance, abstracts and other related services.

**Background:** City departments require various types of title, abstract and closing services. To obtain the most qualified title company to provide this service at a cost that would be beneficial to the City, a Request for Proposal was sent to four vendors and it was posted online. One response was received that met all requirements of the proposal.

**Analysis:** As only one proposal was received, a selection committee was not required. The proposal received from First American was compared to the current contract, which was approved in 2005. Only minor increases were noted. First American is the current provider of title services and has performed very well. The proposal provides a fair and reasonable price for the services provided.

**Financial Considerations:** The contract does not obligate the City to any specific purchases or volume of purchases on title services but provides the City the ability to obtain title and closing services from a qualified, cost-effective vendor. The contract provides for various types of title, abstract, and closing services to be provided on a fixed cost per item.

**Goal Impact:** Quality title work allows for efficient acquisition of properties to support efficient infrastructure and other key goals.

**Legal Considerations:** The Law Department has reviewed the contract as to form. The contract will be for one year with annual renewal options for an additional two years.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the selection of First American to provide title insurance, abstracts and other related services, and 2) Authorize all necessary signatures.

**Attachments:** Contract

**CONTRACT**  
**for**  
**ABSTRACT, TITLE INSURANCE AND**  
**OTHER RELATED SERVICES**

**BLANKET PURCHASE ORDER NUMBER BP800142**

**THIS CONTRACT** entered into this 6<sup>th</sup> day of January, 2009, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **FIRST AMERICAN TITLE KANSAS AGENCY, INC.**, referred to below as **FIRST AMERICAN TITLE**, (Vendor Code Number 809953-001), whose principal office is at 434 N. Main, Wichita, Kansas, 67202, Telephone Number (316) 267-8371, hereinafter called "**VENDOR**".

**WITNESSETH:**

**WHEREAS**, the **CITY** has solicited proposals for **Abstract, Title Insurance and Other Related Services** (Formal Proposal – FP800084) [Commodity Code Number 94646]; and

**WHEREAS**, **VENDOR** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

**NOW, THEREFORE**, the parties hereto agree as follows:

**1. Scope of Services.** **VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP800084, [Commodity Code Number 94646] which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal Number – FP800084 shall be considered a part of this contract and is incorporated by reference herein.

**2. Compensation.** **CITY** agrees to pay to **VENDOR** the unit price as per **Exhibit B** for **Abstract, Title Insurance and Other Related Services**, for Formal Proposal – FP800084 [Commodity Code Number 94646], for the General Government Department, Property Management Division as compensation as per the proposal, plans, specifications, addenda and **VENDOR's** proposal of October 13, 2008, and as approved by the City Council on January 6, 2009. **The pricing (Exhibit B) is based on costs per items and specifications of minimum and maximum time frames for performing each of the services.**

**3. Term.** The term of this contract shall be from **January 6, 2009 through December 31, 2009** with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of the parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR**.

**4. Indemnification and Insurance.**

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

**5. Independent Contractor.** The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

**6. Compliance with Laws.** **VENDOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

**7. No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

**8. Non-Discrimination.** **VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

**9. Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

**10. No Arbitration.** The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in proposal documents is deemed void.

**11. Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

**12. Representative's Authority to Contract.** By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

**IN WITNESS WHEREOF**, the parties have set their hands the day and year first above written.

**ATTEST:**

**CITY OF WICHITA, KANSAS**

\_\_\_\_\_  
Janis Edwards  
Deputy City Clerk

\_\_\_\_\_  
Carl G. Brewer, Mayor

**APPROVED AS TO FORM:**

**FIRST AMERICAN TITLE**

\_\_\_\_\_  
*Gary E. Rebenstorf*  
Gary E. Rebenstorf  
Director of Law

\_\_\_\_\_  
*Glenn B. Edwards*  
Signature

\_\_\_\_\_  
*Glenn B. Edwards*  
Print Signature Name

\_\_\_\_\_  
*Kansas Title Production Manager*  
Title (President or Corporate Officer)

Exhibit A

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;



5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

# EXHIBIT B

The following is a list of services with an estimated annual quantity usage. Please identify and supply the individual costs per items and specify the minimum and maximum time frames for performing each of the following services:

15 EA: Ownership list for real estate (to include up to eight (8) lots or tracts or combinations thereof) \$ 100.00  
Cost Per List

Time to prepare list: Minimum 3 days Maximum 10 days

Additional charge for each additional lot: \$ 10.00

Additional charge for each additional tract: \$ 10.00

150 EA: Certificate of title contiguous parcels \$ 150.00  
Cost Per Title

Time to prepare certificate: Minimum 2 days Maximum 10 days

Additional parcels in the same name: \$ 100.00 if chains are the same, \$150.00 if the chains are different

30 EA: Closing fee (residential) \$ 400.00  
Cost Per Closing

Time to prepare closing statement: Minimum 1 day Maximum 3 days

30 EA: Closing fee (commercial) \$ 1.00  
Cost Per Closing  
(fee per thousand dollars on each contract up to \$1,000,000)  
Minimum commercial closing fee of \$400.00

Time to prepare closing statement Minimum 1 day Maximum 3 days

Additional fee per thousand dollars over \$1,000,000: \$ .10 per thousand

60 EA: Title insurance policy (one parcel) \$ See Rate Chart  
(plus premium and additional parcels changes as listed below) Attached

Time to prepare title policy: Minimum 2 days Maximum 10 days

Per \$1,000 of Acquisition Cost up to \$50,000	\$ <u>These are all</u>
Per \$1,000 of Acquisition Cost from \$50,001 to \$100,000	\$ <u>included in</u>
Per \$1,000 of Acquisition Cost from \$100,001 to \$5,000,000	\$ <u>the rate chart</u>
Each for additional parcels	\$ <u>75.00</u>

Add an additional \$1.00 per thousand for amounts over \$1,000,000.00.



# First American Title

## SEDGWICK COUNTY TITLE INSURANCE CHARGES Effective March 15, 2008

Amounts Up to	Rate	Ref/2nd	Amounts Up to	Rate	Ref/2nd	Amounts Up to	Rate	Ref/2nd	Amounts Up to	Rate	Ref/2nd
10,000	175.00	175.00	262,000	991.00	594.60	516,000	1522.00	913.20	768,000	1795.00	1077.00
14,000	201.00	175.00	266,000	999.00	599.40	520,000	1527.00	916.20	772,000	1799.00	1079.40
18,000	227.00	175.00	270,000	1008.00	604.80	524,000	1532.00	919.20	776,000	1804.00	1082.40
22,000	253.00	175.00	274,000	1017.00	610.20	528,000	1536.00	921.60	780,000	1809.00	1085.40
26,000	279.00	175.00	278,000	1025.00	615.00	532,000	1540.00	924.00	784,000	1813.00	1087.80
30,000	305.00	183.00	282,000	1034.00	620.40	536,000	1544.00	926.40	788,000	1817.00	1090.20
34,000	327.00	196.20	286,000	1042.00	625.20	540,000	1549.00	929.40	792,000	1821.00	1092.60
38,000	348.00	208.80	290,000	1051.00	630.60	544,000	1553.00	931.80	796,000	1825.00	1095.00
42,000	369.00	221.40	294,000	1060.00	636.00	548,000	1557.00	934.20	800,000	1830.00	1098.00
46,000	388.00	232.80	298,000	1068.00	640.80	552,000	1561.00	936.60	804,000	1834.00	1100.40
50,000	408.00	244.80	302,000	1077.00	646.20	556,000	1566.00	939.60	808,000	1839.00	1103.40
54,000	427.00	256.20	306,000	1086.00	651.60	560,000	1571.00	942.60	812,000	1843.00	1105.80
58,000	447.00	268.20	310,000	1095.00	657.00	564,000	1575.00	945.00	816,000	1847.00	1108.20
62,000	460.00	276.00	314,000	1103.00	661.80	568,000	1579.00	947.40	820,000	1852.00	1111.20
66,000	485.00	291.00	318,000	1111.00	666.60	572,000	1583.00	949.80	824,000	1856.00	1113.60
70,000	505.00	303.00	322,000	1120.00	672.00	576,000	1587.00	952.20	828,000	1860.00	1116.00
74,000	522.00	313.20	326,000	1129.00	677.40	580,000	1592.00	955.20	832,000	1864.00	1118.40
78,000	540.00	324.00	330,000	1138.00	682.80	584,000	1596.00	957.60	836,000	1868.00	1120.80
82,000	556.00	333.60	334,000	1146.00	687.60	588,000	1601.00	960.60	840,000	1874.00	1124.40
86,000	570.00	342.00	338,000	1155.00	693.00	592,000	1605.00	963.00	844,000	1878.00	1126.80
90,000	586.00	351.60	342,000	1164.00	698.40	596,000	1609.00	965.40	848,000	1882.00	1129.20
94,000	601.00	360.60	346,000	1172.00	703.20	600,000	1614.00	968.40	852,000	1886.00	1131.60
98,000	617.00	370.20	350,000	1181.00	708.60	604,000	1618.00	970.80	856,000	1890.00	1134.00
102,000	629.00	377.40	354,000	1190.00	714.00	608,000	1622.00	973.20	860,000	1895.00	1137.00
106,000	641.00	384.60	358,000	1198.00	718.80	612,000	1626.00	975.60	864,000	1899.00	1139.40
110,000	651.00	390.60	362,000	1207.00	724.20	616,000	1630.00	978.00	868,000	1903.00	1141.80
114,000	662.00	397.20	366,000	1215.00	729.00	620,000	1635.00	981.00	872,000	1908.00	1144.80
118,000	673.00	403.80	370,000	1224.00	734.40	624,000	1640.00	984.00	876,000	1912.00	1147.20
122,000	684.00	410.40	374,000	1233.00	739.80	628,000	1644.00	986.40	880,000	1917.00	1150.20
126,000	694.00	416.40	378,000	1241.00	744.60	632,000	1648.00	988.80	884,000	1921.00	1152.60
130,000	706.00	423.60	382,000	1250.00	750.00	636,000	1652.00	991.20	888,000	1925.00	1155.00
134,000	714.00	428.40	386,000	1259.00	755.40	640,000	1657.00	994.20	892,000	1929.00	1157.40
138,000	722.00	433.20	390,000	1268.00	760.80	644,000	1661.00	996.60	896,000	1933.00	1159.80
142,000	731.00	438.60	394,000	1276.00	765.60	648,000	1665.00	999.00	900,000	1938.00	1162.80
146,000	740.00	444.00	398,000	1284.00	770.40	652,000	1670.00	1002.00	904,000	1943.00	1165.80
150,000	749.00	449.40	402,000	1293.00	775.80	656,000	1674.00	1004.40	908,000	1947.00	1168.20
154,000	757.00	454.20	406,000	1302.00	781.20	660,000	1679.00	1007.40	912,000	1951.00	1170.60
158,000	765.00	459.00	410,000	1311.00	786.60	664,000	1683.00	1009.80	916,000	1955.00	1173.00
162,000	775.00	465.00	414,000	1320.00	792.00	668,000	1687.00	1012.20	920,000	1963.00	1177.80
166,000	783.00	469.80	418,000	1328.00	796.80	672,000	1691.00	1014.60	924,000	1964.00	1178.40
170,000	792.00	475.20	422,000	1337.00	802.20	676,000	1695.00	1017.00	928,000	1968.00	1180.80
174,000	800.00	480.00	426,000	1345.00	807.00	680,000	1700.00	1020.00	932,000	1972.00	1183.20
178,000	809.00	485.40	430,000	1354.00	812.40	684,000	1705.00	1023.00	936,000	1977.00	1186.20
182,000	818.00	490.80	434,000	1363.00	817.80	688,000	1709.00	1025.40	940,000	1982.00	1189.20
186,000	826.00	495.60	438,000	1371.00	822.60	692,000	1713.00	1027.80	944,000	1986.00	1191.60
190,000	834.00	500.40	442,000	1380.00	828.00	696,000	1717.00	1030.20	948,000	1990.00	1194.00
194,000	843.00	505.80	446,000	1388.00	832.80	700,000	1722.00	1033.20	952,000	1994.00	1196.40
198,000	851.00	510.60	450,000	1397.00	838.20	704,000	1726.00	1035.60	956,000	1998.00	1198.80
202,000	861.00	516.60	454,000	1406.00	843.60	708,000	1730.00	1038.00	960,000	2003.00	1201.80
206,000	869.00	521.40	458,000	1414.00	848.40	712,000	1734.00	1040.40	964,000	2007.00	1204.20
210,000	878.00	526.80	462,000	1423.00	853.80	716,000	1739.00	1043.40	968,000	2012.00	1207.20
214,000	887.00	532.20	466,000	1432.00	859.20	720,000	1744.00	1046.40	972,000	2016.00	1209.60
218,000	895.00	537.00	470,000	1441.00	864.60	724,000	1748.00	1048.80	976,000	2020.00	1212.00
222,000	904.00	542.40	474,000	1449.00	869.40	728,000	1752.00	1051.20	980,000	2025.00	1215.00
226,000	912.00	547.20	478,000	1458.00	874.80	732,000	1756.00	1053.60	984,000	2029.00	1217.40
230,000	920.00	552.00	482,000	1467.00	880.20	736,000	1760.00	1056.00	988,000	2033.00	1219.80
234,000	930.00	558.00	486,000	1475.00	885.00	740,000	1765.00	1059.00	992,000	2037.00	1222.20
238,000	938.00	562.80	490,000	1484.00	890.40	744,000	1769.00	1061.40	996,000	2041.00	1224.60
242,000	947.00	568.20	494,000	1493.00	895.80	748,000	1774.00	1064.40	1,000,000	2046.00	1227.60
246,000	956.00	573.60	498,000	1501.00	900.60	752,000	1778.00	1066.80			
250,000	965.00	579.00	504,000	1510.00	906.00	756,000	1782.00	1069.20			
254,000	973.00	583.80	508,000	1514.00	908.40	760,000	1787.00	1072.20			
258,000	982.00	589.20	512,000	1518.00	910.80	764,000	1797.00	1078.20			

\*SEE OVER

**Senior Management Expenses  
For the Month of November 2008**

<b>Employee by Department</b>	<b>Purpose</b>	<b>Amount</b>
<b>01-City Manager Staff</b>		
Scott Moore, Interim City Manager	NLC Congress of Cities Conference - Orlando, FL	\$ 1,860.64
Cathy Holdeman, Assistant City Manager	KACM Board Conference Planning Mtg - Montreal Canada	1,775.98
<b>08-Police</b>		
Norman Williams, Chief	IACP Conference - San Diego, CA	1,961.57
<b>09-Housing &amp; Community Services</b>		
Brad Snapp, Assistant Director of Housing & Community Services	Kansas NAHRO Fall Conference - Manhattan, KS	443.57
<b>13-Public Works</b>		
Jim Armour, City Engineer	ASCE's 138th Annual Civil Engineering Conf - Pittsburgh, PA	1,812.54
<b>15-Planning</b>		
Nancy Harvieux, Transportation Manager	KAMPO Roundtable - St Joseph, MO	394.39
<b>16-Transit</b>		
Mike Vinson, Director of Transit	KDOT Meeting - Topeka, KS	127.95
<b>Total</b>		<b>\$ 8,376.64</b>

**Second Reading Ordinances for January 6, 2008 (first read on December 16, 2008)**

Approval of Economic Development Incentives Agreement for FlightSafety International.  
(Districts II and IV)

ORDINANCE NO. 48-149

An ordinance of the City of Wichita, Kansas, authorizing, prescribing the form and authorizing the execution of a forgivable loan agreement and promissory note by and between Flightsafety international and the city of Wichita, Kansas.

Amendment of Exchange Place Project Plan - Center City South Redevelopment District.  
(District VI)

ORDINANCE NO. 48-150

An ordinance adopting a first amendment to the project plan for the Exchange Place project in the Center City South Redevelopment District.

ORDINANCE NO. 48-151

An ordinance authorizing the issuance of full faith and credit tax increment bonds of the City of Wichita, Kansas to pay all or a portion of the costs of acquiring real property, demolition of existing structures, and design and construction of a public parking garage, and site improvements in the center city south redevelopment district, exchange place project area.

DR 2006-02 Wichita Parks, Recreation, and Open Space Plan, November 2008 Proposed Amendment to the Wichita-Sedgwick County Comprehensive Plan.

ORDINANCE NO. 48-153

An ordinance adopting the Wichita Parks, Recreation, and Open Space plan as an amendment to the Wichita-Sedgwick County Comprehensive Plan.